IOWA ADMINISTRATIVE BULLETIN

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March 16, 2005 Pages 1209 to 1284

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PUBLISHED UNDER AUTHORITY OF IOWA CODE SECTIONS 2B.5 AND 17A.6

PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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Attn: Stephanie Cox
Legislative Services Agency
Capitol Building
Des Moines, IA 50319
Telephone: (515)281-3568

CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

Schedule for Rule Making
2005

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
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May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
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July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
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PRINTING SCHEDULE FOR IAB

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21	**Friday, March 25, 2005**	**April 13, 2005**
22	**Friday, April 8, 2005**	**April 27, 2005**
23	**Friday, April 22, 2005**	**May 11, 2005**

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.west@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ELDER AFFAIRS DEPARTMENT[321]		
Adult day services—medication administration and storage, 24.30(2) IAB 3/16/05 **ARC 4055B** **(ICN Network)**	Department of Public Safety Wallace State Office Bldg. Des Moines, Iowa	April 7, 2005 1 p.m.
	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	April 7, 2005 1 p.m.
	Iowa City Community School 509 S. Dubuque St. Iowa City, Iowa	April 7, 2005 1 p.m.
	Bldg. 4, Indian Hills Comm. College 651 Indian Hills Dr. Ottumwa, Iowa	April 7, 2005 1 p.m.
	Spencer High School 800 Third St. Spencer, Iowa	April 7, 2005 1 p.m.
	Schindler 130A, Univ. of Northern Iowa Hudson Rd. and 23rd St. Cedar Falls, Iowa	April 7, 2005 1 p.m.
Assisted living—medication administration and storage, 25.29(2) IAB 3/16/05 **ARC 4054B** **(ICN Network)**	Department of Public Safety Wallace State Office Bldg. Des Moines, Iowa	April 7, 2005 1 p.m.
	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	April 7, 2005 1 p.m.
	Iowa City Community School 509 S. Dubuque St. Iowa City, Iowa	April 7, 2005 1 p.m.
	Bldg. 4, Indian Hills Comm. College 651 Indian Hills Dr. Ottumwa, Iowa	April 7, 2005 1 p.m.
	Spencer High School 800 Third St. Spencer, Iowa	April 7, 2005 1 p.m.
	Schindler 130A, Univ. of Northern Iowa Hudson Rd. and 23rd St. Cedar Falls, Iowa	April 7, 2005 1 p.m.
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Air quality, 20.1, 22.4 to 22.6, 31.1, ch 33 IAB 2/16/05 **ARC 4005B**	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	March 18, 2005 10 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)

	Gritter Room, Iowa Hall Kirkwood Community College Cedar Rapids, Iowa	March 23, 2005 1 p.m.
Air quality, 20.2, 21.2(3), amendments to ch 22, 23.1, 25.1(9) IAB 3/16/05 **ARC 4059B**	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	April 19, 2005 1 p.m.
Solid waste comprehensive planning requirements, 101.1 to 101.13 IAB 3/16/05 **ARC 4062B** **(ICN Network)**	Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Public Library 507 Poplar Atlantic, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Room 210 Maquoketa Valley High School 107 South St. Delhi, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Room 106, Activity Center NIACC 500 College Dr. Mason City, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	Fiber Optic Room 118 Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.
	National Guard Armory 501 Highway 1 South Washington, Iowa	April 6, 2005 9:45 a.m. to 12:15 p.m.

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Universal life insurance, ch 92 IAB 3/2/05 **ARC 4025B**	330 Maple St. Des Moines, Iowa	March 22, 2005 10 a.m.

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Qualification of language interpreters, ch 2 IAB 3/2/05 **ARC 4030B**	Department of Human Rights Lucas State Office Bldg. Des Moines, Iowa	March 24, 2005 1 p.m.

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Inspection of permanently moored vessels, ch 48 IAB 3/2/05 **ARC 4031B**	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 22, 2005 9 a.m.
Deer population management zones, ch 105 IAB 3/2/05 **ARC 4033B**	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 22, 2005 9 a.m.

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Respiratory care practitioners—discipline, 263.2(30) IAB 3/16/05 **ARC 4038B**	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 18, 2005 9 to 10 a.m.
Licensure of interpreter for the hearing impaired practitioners, ch 361 IAB 3/16/05 **ARC 4040B**	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 5, 2005 9 to 10 a.m.

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Closed circuit surveillance systems in gaming establishments, rescind ch 23; adopt ch 141 IAB 3/16/05 **ARC 4066B**	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 8, 2005 10 a.m.
Regulatory analysis, Minimum training standards for fire fighters, 54.100 to 54.104 IAB 3/16/05 (See **ARC 3482B**, IAB 7/7/04)	Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	April 7, 2005 10 a.m.

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Quality of service reporting by eligible telecommunications carriers, 39.3(1), 39.5 IAB 3/16/05 **ARC 4064B**	Hearing Room 350 Maple St. Des Moines, Iowa	May 11, 2005 9 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."

Other autonomous agencies which were not included in the original reorganization legislation as "umbrella" agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

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ARC 4055B

ELDER AFFAIRS DEPARTMENT[321]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b.*"

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 231.14, 231D.2 and 231D.3, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 24, "Adult Day Services Programs," Iowa Administrative Code.

The amendment clarifies the provisions of medication administration and storage.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 7, 2005. Such written comments should be directed to the Department of Elder Affairs, 200 10th Street, Des Moines, Iowa 50309; or E-mailed to sherry.james@iowa.gov; or faxed to (515)242-3300.

There will be a public hearing on April 7, 2005, at 1 p.m. over the Iowa Communications Network (ICN), at which time persons may present their views either orally or in writing. Access to the public hearing will be available through the following locations:

Department of Public Safety
Wallace State Office Building
502 East Ninth Street
Des Moines

Iowa Western Community College
2700 College Road
Council Bluffs

Iowa City Community School
509 South Dubuque Street
Iowa City

Indian Hills Community College
651 Indian Hills Drive, Bldg. 4
Ottumwa

Spencer High School
800 Third Street
Spencer

University of Northern Iowa
Hudson Road and 23rd Street
Schindler 130A
Cedar Falls

At the public hearing, attendees will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend the public hearing and who has special requirements, such as those related to hearing or mobility impairments, should contact the Elder Affairs Department and communicate specific needs.

This amendment is intended to implement Iowa Code chapter 231D.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind paragraph **24.30(2)"c"** and adopt in lieu thereof the following **new** paragraph:

c. When the program provides assistance with the storage of medications, such assistance shall be specified in the service plan and the medications shall be stored in accordance with nurse practice standards for medication storage. The nurse shall exercise professional judgment in determining the method of storage, and the program shall ensure that all methods of medication storage conform to professional standards and any provisions in federal or state law applicable to controlled substances. Program assistance with medications, as determined by the participant and set forth in the service plan as a health-related service, may include, but is not limited to, prompting, cueing and reminding, opening of medication containers or packaging, reading instructions or label information, or transferring a medication from the original container to suitable dispensing containers, medication cups, or medication reminder boxes.

ARC 4054B

ELDER AFFAIRS DEPARTMENT[321]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b.*"

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 231.14, 231C.1 and 231C.3, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 25, "Assisted Living Programs," Iowa Administrative Code.

The amendment clarifies the provisions of medication administration and storage.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 7, 2005. Such written comments should be directed to the Department of Elder Affairs, 200 10th Street, Des Moines, Iowa 50309; or E-mailed to sherry.james@iowa.gov; or faxed to (515)242-3300.

There will be a public hearing on April 7, 2005, at 1 p.m. over the Iowa Communications Network (ICN), at which time persons may present their views either orally or in writing. Access to the public hearing will be available through the following locations:

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502 East Ninth Street
Des Moines

Iowa Western Community College
2700 College Road
Council Bluffs

Iowa City Community School
509 South Dubuque Street
Iowa City

ELDER AFFAIRS DEPARTMENT[321](cont'd)

Indian Hills Community College
651 Indian Hills Drive, Bldg. 4
Ottumwa

Spencer High School
800 Third Street
Spencer

University of Northern Iowa
Hudson Road and 23rd Street
Schindler 130A
Cedar Falls

At the public hearing, attendees will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any person who intends to attend the public hearing and who has special requirements, such as those related to hearing or mobility impairments, should contact the Elder Affairs Department and communicate specific needs.

This amendment is intended to implement Iowa Code chapter 231C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind paragraph **25.29(2)"c"** and adopt in lieu thereof the following **new** paragraph:

c. When the program provides assistance with the storage of medications, such assistance shall be specified in the service plan and the medications shall be stored in accordance with nurse practice standards for medication storage. The nurse shall exercise professional judgment in determining the method of storage, and the program shall ensure that all methods of medication storage conform to professional standards and any provisions in federal or state law applicable to controlled substances. Program assistance with medications, as determined by the tenant and set forth in the service plan as a health-related service, may include, but is not limited to, prompting, cueing and reminding, opening of medication containers or packaging, reading instructions or label information, or transferring a medication from the original container to suitable dispensing containers, medication cups, or medication reminder boxes.

ARC 4059B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 21, "Compliance," Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," and Chapter 25, "Measurement of Emissions," Iowa Administrative Code.

Item 1 amends the definitions in rule 567—20.2(455B) to add a definition of "untreated" as it applies to wood or wood products, seeds, pellets and other vegetative matter. This definition is being added to clarify that untreated wood includes only wood or wood products that have not been treated with compounds such as, but not limited to, paint, pigment-stain, adhesive, varnish, lacquer, or resin, or that have not been pressure treated with compounds such as, but not limited to, chromate copper acetate, pentachlorophenol or creosote. Untreated pellets, seeds or vegetative matter includes only pellets, seeds or other vegetative matter that has not been treated with pesticide or fungicide.

Item 2 amends the definition of "volatile organic compound," also known as VOC, to reflect the most recent Code of Federal Regulations (CFR) amendment date. On November 29, 2004, U.S. Environmental Protection Agency (EPA) amended the federal rules to delist four substances previously classified as VOCs. These four substances are HFE-7000, HFE-7500, HFC 227ea and methyl formate. In a separate action on that date, EPA revised the VOC classification for an additional substance, t-Butyl Acetate (also known as TBAC). This revision modifies the definition of VOC to clarify that TBAC will not be a VOC for purposes of VOC emissions limitations or VOC material content requirements, but must be reported separately for purposes of all record keeping, photochemical dispersion modeling, emissions reporting, and emissions inventory requirements which apply to VOCs.

Item 3 amends the variance paragraph in Chapter 21 by deleting the word "notwithstanding," and rewording the paragraph to more clearly state that the Director may not grant variances for projects subject to certain federal requirements. EPA requested this clarification, which does not change any of the existing provisions for granting a variance for the purpose of testing an alternative fuel.

Item 4 amends the construction permit application submittal requirements to clarify the requirements for engineers submitting applications to the Department. This amendment replaces the word "registered" with the word "licensed" in order to be consistent with changes made to Iowa Code section 542B.1 in 1995. The amendment also affirms that the requirements for a professional, licensed engineer do not apply to full-time employees of the company submitting the application, as provided for in Iowa Code section 542B.26.

Item 5 clarifies the requirements for notification of ownership change for construction permits by adding the mailing address for the Department's Air Quality Bureau.

Item 6 updates the definitions for the Title V operating permit program. References to the CFR are updated to reflect the most current amendment date for the applicable part. The reference to 40 CFR Part 75, Appendix H, under the definition of "EPA reference method," was deleted because the original reference method in the federal regulations no longer exists and is now reserved. Additionally, the definition for "hazardous air pollutant" is updated to reflect the EPA amendment of November 29, 2004, which deleted the substance ethylene glycol monobutyl ether from the list of hazardous air pollutants.

Item 7 updates the subrule for Title V deferred stationary sources to reflect the most current CFR amendment dates.

Item 8 amends the exemptions to Title V requirements to reflect the most current CFR amendment dates.

Item 9 amends the subrule for submitting Title V permit applications to reduce the maximum number of copies re-

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quired from four copies to three copies. The amendment also specifies to which office each copy of the application should be sent.

Item 10 amends the subparagraph for reopenings of Title V permits to update the CFR reference to the most current amendment date.

Item 11 adopts new definitions to reflect the current amendment dates for six CFR parts that are cited frequently in the acid rain rules: 40 CFR Parts 72, 73, 75, 76, 77 and 78. These citations are now set out in the definitions. Future changes to these citations will now be clearly noted in the definitions and will allow for fewer corrections when citations are amended in the future.

Item 12 amends the definitions for the acid rain program to reflect the most current amendment date for CFR references.

Item 13 amends the acid rain paragraph for affected units to reflect the most recent CFR amendment date.

Item 14 amends the acid rain subrule for applicability determinations to update the CFR amendment date.

Item 15 amends the acid rain subrule for new unit exemptions to reflect the most recent CFR amendment date.

Item 16 amends the acid rain subrule for retired unit exemptions to reflect the current CFR amendment date.

Item 17 amends the acid rain sulfur dioxide requirements to update the CFR amendment date.

Item 18 amends the acid rain subrule for nitrogen oxides with the most recent CFR amendment dates.

Item 19 amends the acid rain paragraph for violations to reflect the current CFR amendment dates.

Item 20 amends the subrule for submitting acid rain applications to reduce the maximum number of required copies from four copies to three copies.

Item 21 amends the paragraph for sulfur dioxide allowances to update the CFR amendment dates.

Item 22 amends the paragraph for nitrogen oxide compliance options by deleting one of the CFR sections cited. 40 CFR Section 76.16 was removed from the federal regulations.

Item 23 amends the rule for acid rain permit shields to reflect the most recent CFR amendment dates.

Item 24 amends the acid rain subrule for permit appeals to reflect the current CFR amendment dates.

Item 25 amends the acid rain subrule for recordation of allowance tracking to update the CFR amendment date.

Item 26 amends the acid rain subrule for applicability and deadlines to reflect the most recent CFR amendment date.

Item 27 amends the acid rain rule for sulfur dioxide opt-ins to reflect the current CFR amendment date.

Item 28 adds a new rule to the rules for voluntary operating permits to establish the notification requirements for change in ownership at subject facilities.

Item 29 adds a new subrule to the rules for operating permits by rule for small sources to specify the notification requirements for change in ownership at subject facilities.

Item 30 amends the subrule in Chapter 23 for new source performance standards (commonly known as NSPS) to reflect the most current amendment date for 40 CFR Part 60. EPA amended the standards for stationary gas turbines (40 CFR Part 60, Subpart GG) to codify several alternative testing methods that had been routinely approved by EPA and to reflect changes that have occurred in nitrogen oxide emission control technologies and turbine design since the standards were originally promulgated.

Item 31 amends the subrule in Chapter 23 for emission standards for hazardous air pollutants to reflect the most current amendment date for 40 CFR Part 61. The amendments to the federal regulations consisted of minor corrections, additions and administrative changes.

Item 32 amends the subrule in Chapter 23 for emission standards for hazardous air pollutants (commonly known as NESHAPs) for source categories to update it to reflect recent amendments to 40 CFR Part 63. The substantive changes to 40 CFR Part 63 include the following:

EPA amended the NESHAP commonly known as Hazardous Organic NESHAP or HON (40 CFR Part 63, Subpart G) to allow vapor balancing in conjunction with the use of pressure setting to comply with the storage tank control requirements of the standards.

EPA amended the NESHAP for chrome emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR Part 63, Subpart N) to amend the emission limits, definitions, compliance provisions and performance test requirements.

For the NESHAP for solvent extraction for vegetable oil production (40 CFR Part 63, Subpart GGGG), EPA amended the compliance requirements for vegetable oil production processes that exclusively use a qualifying low-hazardous air pollutant (HAP) extraction process. Only the necessary record-keeping and reporting requirements need to be completed to demonstrate compliance with the NESHAP.

For the stationary combustion turbine NESHAP (40 CFR Part 63, Subpart YYYY), EPA issued a stay on the effectiveness of the rule requirement for two subcategories of turbines: lean premix gas-fired turbines and diffusion flame gas-fired turbines.

Item 33 amends subrule 23.1(4) to adopt four new federal NESHAPs for source categories. These new NESHAP source categories are: plywood and composite wood products; surface coating of plastic parts and products; stationary reciprocating internal combustion engines (RICEs); and industrial, commercial and institutional boilers and process heaters.

Item 34 updates the subrule in Chapter 25 for performance evaluations of continuous monitoring systems to reflect the most current CFR amendment dates. The reference to 40 CFR Part 75, Appendix H, was deleted because the original reference method in the federal regulations no longer exists and is now reserved.

Any person may make written suggestions or comments on the proposed amendments on or before April 25, 2005. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, fax (515) 242-5094, or by electronic mail to christine.paulson@dnr.state.ia.us.

An informational meeting for those with questions about the amendments will be held on Wednesday, April 13, 2005, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa.

A public hearing will be held on Tuesday, April 19, 2005, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. All comments must be received no later than April 25, 2005.

Any person who intends to attend the informational meeting or public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515)242-5154 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

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A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **567—20.2(455B)** by adopting the following **new** definition in alphabetical order:

"Untreated" as it refers to wood or wood products includes only wood or wood products that have not been treated with compounds such as, but not limited to, paint, pigment-stain, adhesive, varnish, lacquer, or resin or that have not been pressure treated with compounds such as, but not limited to, chromate copper acetate, pentachlorophenol or creosote. "Untreated" as it refers to seeds, pellets or other vegetative matter includes only seeds, pellets or other vegetative matter that has not been treated with pesticides or fungicides.

ITEM 2. Amend rule **567—20.2(455B)**, definition of "volatile organic compound," as follows:

"Volatile organic compound" means any compound included in the definition of volatile organic compound found at 40 CFR Section 51.100(s), as amended through ~~April 9, 1998~~ *November 29, 2004*.

ITEM 3. Amend paragraph **21.2(3)"a"** as follows:

a. Variance from construction permit. ~~Notwithstanding paragraph 21.2(4)"c," the~~ *The* director may grant a variance for the purpose of testing an alternative fuel and quantifying the emissions from the alternative fuel~~.~~ *, except as prohibited under paragraph 21.2(4)"c."*

ITEM 4. Amend paragraph **22.1(3)"b,"** introductory paragraph, as follows:

b. Construction permit applications. Each application for a construction permit shall be submitted to the department on the form "Air Construction Permit Application." Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer ~~registered~~ *licensed* in the state of Iowa in conformance with Iowa Code ~~chapter 542B~~ *section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while doing work for that corporation.* The application for a permit to construct shall include the following information:

ITEM 5. Amend subrule 22.3(8) as follows:

22.3(8) Ownership change of permitted equipment. The new owner shall notify the department in writing no later than 30 days after the change in ownership of equipment covered by a construction permit pursuant to 567—22.1(455B). The notification to the department shall *be mailed to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, and shall* include the following information:

a. The date of ownership change;

b. The name, address and telephone number of the responsible official, *the* contact person and the owner of the equipment both before and after ownership change; and

c. The construction permit number of the equipment changing ownership.

ITEM 6. Amend rule **567—22.100(455B)**, definitions of "EPA reference method"; "existing hazardous air pollutant source"; and "hazardous air pollutant," description of the air pollutant "glycol ethers[2]," as follows:

"EPA reference method" means any method of sampling and analyzing for an air pollutant as described in 40 CFR 51, Appendix M (as amended through ~~May 30, 1995~~ *June 16, 1997*); 40 CFR 52, Appendices D (as amended through February 6, 1975) and E (as amended through February 6, 1975); 40 CFR 60, Appendices A (as amended through ~~March 12, 1996~~ *October 17, 2000*), B (as amended through ~~December 15, 1994~~ *January 12, 2004*), C (as amended through December 16, 1975), and F (as amended through ~~February 11, 1991~~ *January 12, 2004*); 40 CFR 61, Appendix B (as amended through ~~June 3, 1992~~ *October 17, 2000*); 40 CFR 63, Appendix A (as amended through ~~December 7, 1995~~ *October 17, 2000*); and 40 CFR 75, Appendices A (as amended through ~~May 22, 1996~~ *August 16, 2002*)~~,~~ *and* B (as amended through ~~May 17, 1995~~ *September 9, 2002*)~~, and H (as amended through July 30, 1993)~~.

"Existing hazardous air pollutant source" means any source as defined in 40 CFR 61 (as amended through ~~April 21, 1997~~ *July 20, 2004*) and 40 CFR 63.72 (as amended through December 29, 1992) with respect to Section 112(i)(5) of the Act, the construction or reconstruction of which commenced prior to proposal of an applicable Section 112(d) standard.

"Hazardous air pollutant" means any of the following air pollutants listed in Section 112 of the Act:

cas #	chemical name
0	Glycol Ethers[2], *except for ethylene glycol monobutyl ether (EGBE) (2-Butoxyethanol) (cas # 111-76-2)*

ITEM 7. Amend subrule 22.101(2) as follows:

22.101(2) Title V deferred stationary sources. The requirement to obtain a Title V permit is deferred for all sources listed in 22.101(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Act, unless by the final promulgation of a federal standard to which the source is subject under the provisions of 40 CFR Part 60 (as amended through ~~November 24, 1998~~ *July 14, 2004*), 40 CFR Part 63 (as amended through ~~December 28, 1998~~ *January 10, 2005*), or 567—subrule 23.1(5)~~,~~ a source is required to obtain a Title V permit. Each source receiving a deferral under the provisions of this rule shall submit a Title V permit application to the department within 12 months of the date when the requirement to obtain a Title V permit is no longer deferred for that source.

ITEM 8. Amend the following subrules:

22.102(1) Residential wood heaters required to obtain a Title V permit solely because they are subject to 40 CFR 60, Subpart AAA, as amended to ~~November 24, 1998~~ *October 17, 2000*.

22.102(2) Asbestos demolition and renovation projects required to obtain a Title V permit solely because they are subject to 40 CFR 61, Subpart M, as amended to ~~June 19, 1995~~ *July 20, 2004*.

22.102(3) Any decorative chromium electroplating operation or chromium anodizing operation using fume suppressants as an emission reduction technology; and any decorative chromium electroplating operation using a trivalent chromium bath incorporating a wetting agent as a bath ingredient if the source is not by itself a major source and is not located at a major source, as defined under 40 CFR 70.2 (as amended through ~~July 21, 1992~~ *June 3, 2004*).

22.102(4) Any batch cold solvent cleaning machine as defined in 40 CFR 63, Subpart T, (as amended through ~~June 5, 1995~~ *June 23, 2003*) that is not itself a major source and that

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is not located at a major source as defined under 40 CFR 70.2 (as amended through ~~July 21, 1992~~ *June 3, 2004*).

ITEM 9. Amend subrule 22.105(1), introductory paragraph, as follows:

22.105(1) Duty to apply. For each source required to obtain a Title V permit, the owner or operator or designated representative, where applicable, shall present or mail ~~to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, at least four copies of~~ a complete and timely permit application in accordance with this rule *to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322 (two copies); and U.S. EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy).*

ITEM 10. Amend subparagraph **22.108(17)"a"(2)** as follows:

(2) The reopening and revision on this ground is not required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions have been extended pursuant to 40 CFR 70.4(b)(10)(i) or (ii) as amended to ~~June 20, 1996~~ *May 15, 2001*; or

ITEM 11. Amend rule **567—22.120(455B)** by adopting the following **new** definitions in alphabetical order:

"40 CFR Part 72" means 40 Code of Federal Regulations Part 72, as amended through August 16, 2002.

"40 CFR Part 73" means 40 Code of Federal Regulations Part 73, as amended through May 13, 1999.

"40 CFR Part 75" means 40 Code of Federal Regulations Part 75, as amended through September 9, 2002.

"40 CFR Part 76" means 40 Code of Federal Regulations Part 76, as amended through October 15, 1999.

"40 CFR Part 77" means 40 Code of Federal Regulations Part 77, as amended through December 18, 1997.

"40 CFR Part 78" means 40 Code of Federal Regulations Part 78, as amended through April 21, 2004.

ITEM 12. Amend rule **567—22.120(455B)**, definitions of "acid rain emissions limitation," "allowances held," "authorized account representative," "compliance certification," "compliance subaccount," "demonstration period," "operating period," and "state Title V operating permit program" as follows:

"Acid rain emissions limitation" means:

For purposes of sulfur dioxide emissions:

1. The tonnage equivalent of the basic Phase II allowance allocations authorized to be allocated to an affected unit for use in a calendar year;

2. As adjusted:

- By allowances allocated by the administrator pursuant to Section 403, Section 405(a)(2), (a)(3), (b)(2), (c)(4), (d)(3), and (h)(2), and Section 406 of the Act;
- By allowances allocated by the administrator pursuant to Subpart D of 40 CFR Part 72 ~~as amended through October 24, 1997~~; ~~and thereafter~~
- By allowance transfers to or from the compliance subaccount for that unit that were recorded or properly submitted for recordation by the allowance transfer deadline as provided in 40 CFR 73.35 as amended through ~~April 4, 1995~~ *December 11, 1998*, after deductions and other adjustments are made pursuant to 40 CFR 73.34(c) as amended through ~~April 4, 1995~~ *May 13, 1999*; and

For purposes of nitrogen oxides emissions, the applicable limitation established by regulations promulgated by the administrator pursuant to Section 407 of the Act, as modified by an acid rain permit application submitted to the department, and an acid rain permit issued by the department, in accordance with rules implementing Section 407 of the Act.

"Allowances held" or "hold allowances" means the allowances recorded by the administrator, or submitted to the administrator for recordation in accordance with 40 CFR 73.50 as amended through ~~January 11, 1993~~ *December 11, 1998*, in an allowance tracking system account.

"Authorized account representative" means a responsible natural person who is authorized, in accordance with 40 CFR Part 73 ~~as amended through September 28, 1998~~, to transfer and otherwise dispose of allowances held in an allowance tracking system general account; or, in the case of a unit account, the designated representative of the owners and operators of the affected unit.

"Compliance certification" means a submission to the department or the administrator that is required by rules 22.120(455B) to ~~22.147(455B)~~ *22.146(455B)*, by 40 CFR Parts 72, *73*, 75, *76*, 77, *and* 78, ~~as amended through October 24, 1997, 73, as amended through September 28, 1998, and 76, as amended through May 1, 1998,~~ or by regulations implementing ~~Sections~~ *Section* 407 or 410 of the Act to report an affected ~~source~~ *source's* or an affected unit's compliance or noncompliance with a provision of the acid rain program and that is signed and verified by the designated representative in accordance with Subpart B of 40 CFR Part 72 ~~as amended through October 24, 1997~~, ~~rules~~ *rule* 22.146(455B) ~~and 22.147(455B)~~, and the acid rain program regulations generally.

"Compliance subaccount" means the subaccount in an affected unit's allowance tracking system account, established pursuant to 40 CFR 73.31(a) or (b) as amended through July 30, 1993, in which are held, from the date that allowances for the current calendar year are recorded under 40 CFR 73.34(a) as amended through ~~April 4, 1995~~ *December 11, 1998*, until December 31, allowances available for use by the unit in the current calendar year and, after December 31 until the date that deductions are made under 40 CFR 73.35(b) as amended through ~~April 4, 1995~~ *May 13, 1999*, allowances available for use by the unit in the preceding calendar year, for the purpose of meeting the unit's acid rain emissions limitation for sulfur dioxide.

"Demonstration period" means a period of time not less than 15 months, approved under 40 CFR 76.10, as amended through December 19, 1996, for demonstrating that the affected unit cannot meet the applicable emission limitation under 40 CFR ~~Sections~~ *Section* 76.5 or 76.7, as amended through December 19, 1996, or 76.6, as amended through ~~June 12, 1997~~ *October 15, 1999*, and establishing the minimum NO_x emission rate that the unit can achieve during long-term load dispatch operation.

"Operating period" means a period of time of not less than three consecutive months and that occurs not more than one month prior to applying for an alternative emission limitation demonstration period under 40 CFR 76.10, as amended through December 19, 1996, during which the owner or operator of an affected unit that cannot meet the applicable emission limitation:

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1. Operates the installed NO_x emission controls in accordance with primary vendor specifications and procedures, with the unit operating under normal conditions; and

2. Records and reports quality-assured continuous emission monitoring (CEM) and unit operating data according to the methods and procedures in 40 CFR Part 75~~, as amended through November 20, 1996~~.

"State Title V operating permit program" means a Title V operating permit program that the administrator has approved as meeting the requirements of Titles IV and V of the Act and 40 CFR Parts 70 as amended to ~~October 22, 1997~~ *June 3, 2004*, and 72 ~~as amended to October 24, 1997~~.

ITEM 13. Amend paragraph **22.122(1)"a"** as follows:

a. A unit listed in Table 1 of 40 CFR 73.10(a) (as ~~adopted October 24, 1997~~ *amended through September 28, 1998*).

ITEM 14. Amend subrule 22.122(3) as follows:

22.122(3) A certifying official of any unit may petition the administrator for a determination of applicability under 40 CFR 72.6(c) as amended through ~~October 24, 1997~~ *March 1, 2001*. The administrator's determination of applicability shall be binding upon the department, unless the petition is found to have contained significant errors or omissions.

ITEM 15. Amend subrule 22.123(1) as follows:

22.123(1) New unit exemption. The new unit exemption, as specified in 40 CFR § 72.7, as amended through ~~October 24, 1997~~ *March 1, 2001*, except for 40 CFR § 72.7(c)(1)(i), is adopted by reference. This exemption applies to new utility units.

ITEM 16. Amend subrule 22.123(2) as follows:

22.123(2) Retired unit exemption. The retired unit exemption, as specified in 40 CFR § 72.8, as amended through ~~October 24, 1997~~ *December 18, 1997*, is adopted by reference. This exemption applies to any affected unit that is permanently retired.

ITEM 17. Amend subparagraph **22.125(3)"a"(1)** as follows:

(1) Hold allowances, as of the allowance transfer deadline, in the unit's compliance subaccount (after deductions under 40 CFR 73.34(c) as amended through ~~April 4, 1995~~ *December 11, 1998*) not less than the total annual emissions of sulfur dioxide for the previous calendar year from the unit; and

ITEM 18. Amend subrule 22.125(4) as follows:

22.125(4) Nitrogen oxides requirements. The owners and operators of the source and each affected unit at the source shall comply with the applicable acid rain emissions limitation for nitrogen oxides, as specified in 40 CFR Sections 76.5 and 76.7 as amended through December 19, 1996; 76.6 as amended through ~~June 12, 1997~~ *October 15, 1999*; and 76.8, 76.11, 76.12, and 76.15 as amended through ~~April 13, 1995~~ *December 19, 1996*; or by alternative emission limitations provided for by 40 CFR 76.10, *as* amended through December 19, 1996, as long as the alternative emission limitation has been petitioned and demonstrated according to 40 CFR 76.14 as amended through April 13, 1995, and approved by the department.

ITEM 19. Amend paragraph **22.125(7)"g"** as follows:

g. Each violation of a provision of rules 22.120(455B) to ~~22.147(455B)~~ *22.146(455B)* and 40 CFR Parts 72, *73*, 75, *76*, 77, *and* 78, ~~as amended through October 24, 1997, 73, as amended through September 28, 1998, and 76, as amended through May 1, 1998~~ and regulations implementing Sections 407 and 410 of the Act by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation of the Act.

ITEM 20. Amend subrule 22.128(4) as follows:

22.128(4) Submission of copies. The original and ~~four~~ *three* copies of all permit applications shall be presented or mailed to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322.

ITEM 21. Amend paragraph **22.131(1)"a"** as follows:

a. For sulfur dioxide emissions, a certification that, as of the allowance transfer deadline, the designated representative will hold allowances in the unit's compliance subaccount (after deductions under 40 CFR 73.34(c) as amended through ~~April 4, 1995~~ *December 11, 1998*) not less than the total annual emissions of sulfur dioxide from the unit. The compliance plan may also specify, in accordance with rule 22.131(455B), one or more of the acid rain compliance options.

ITEM 22. Amend paragraph **22.131(1)"b"** as follows:

b. For nitrogen oxides emissions, a certification that the unit will comply with the applicable limitation established by subrule 22.125(4) or shall specify one or more acid rain compliance options, in accordance with Section 407 of the Act, and 40 CFR ~~Sections~~ *Section* 76.9 *as* amended through April 13, 1995~~, and 76.16 amended through December 19, 1996~~.

ITEM 23. Amend rule 567—22.134(455B) as follows:

567—22.134(455B) Acid rain permit shield. Each affected unit operated in accordance with the acid rain permit that governs the unit and that was issued in compliance with Title IV of the Act, as provided in rules 22.120(455B) to 22.146(455B), rule 567—25.2(455B), or 40 CFR Parts 72, *73*, 75, *76*, 77, *and* 78, ~~as amended through October 24, 1997, 73, as amended through September 28, 1998, and 76, as amended through May 1, 1998,~~ and the regulations implementing Section 407 of the Act, shall be deemed to be operating in compliance with the acid rain program, except as provided in paragraph 22.125(7)"f."

ITEM 24. Amend subrule 22.139(1) as follows:

22.139(1) Appeals of the acid rain portion of a Title V operating permit issued by the department that do not challenge or involve decisions or actions of the administrator under 40 CFR Parts 72, *73*, 75, *76*, 77, *and* 78 ~~as amended through October 24, 1997, 73 as amended through September 28, 1998, and 76 as amended through May 1, 1998,~~ and Sections 407 and 410 of the Act and regulations implementing Sections 407 and 410 shall be conducted according to the procedures in Iowa Code chapter 17A and 561—Chapter 7, as adopted by reference at 567—Chapter 7. Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the administrator shall follow the procedures under 40 CFR Part 78 ~~as amended through October 24, 1997,~~ and Section 307 of the Act. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualifying repowering technology.

ITEM 25. Amend subrule 22.144(1) as follows:

22.144(1) Upon recordation by the administrator under 40 CFR Part 73 ~~as amended through September 28, 1998~~, all allowance allocations to, transfers to, and deductions from an affected unit's allowance tracking system account; and

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ITEM 26. Amend subrule 22.146(1) as follows:

22.146(1) Applicability and deadline. For each calendar year in which a unit is subject to the acid rain emissions limitations, the designated representative of the source at which the unit is located shall submit to the administrator and the department, within 60 days after the end of the calendar year, an annual compliance certification report for the unit in compliance with 40 CFR 72.90 as amended through ~~October 24, 1997~~ *May 26, 1999*.

ITEM 27. Amend rule 567—22.148(455B) as follows:

567—22.148(455B) Sulfur dioxide opt-ins. The department adopts by reference the provisions of 40 CFR Part 74, Acid Rain Opt-Ins, as amended through ~~April 4, 1995~~ *March 1, 2001*.

ITEM 28. Adopt the following **new** rule:

567—22.209(455B) Change of ownership for facilities with voluntary operating permits. The new owner shall notify the department in writing no later than 30 days after the change of ownership of equipment covered by a voluntary operating permit. The notification to the department shall be mailed to Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, and shall include the following information:

1. The date of ownership change;
2. The name, address and telephone number of the responsible official, the contact person and the owner of the equipment both before and after the change of ownership; and
3. The voluntary operating permit number for the equipment changing ownership.

ITEM 29. Adopt **new** subrule 22.300(12) as follows:

22.300(12) Change of ownership. The new owner shall notify the department in writing no later than 30 days after the change of ownership of equipment covered by an operating permit by rule for small sources. The notification to the department shall be mailed to Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, and shall include the following information:

a. The date of ownership change; and

b. The name, address and telephone number of the responsible official, the contact person and the owner of the equipment both before and after the change of ownership.

ITEM 30. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~December 19, 2003~~, *July 14, 2004*, are adopted by reference, except §60.530 through §60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 31. Amend subrule 23.1(3), introductory paragraph, as follows:

23.1(3) Emission standards for hazardous air pollutants. The federal standards for emissions of hazardous air pollutants, 40 Code of Federal Regulations Part 61 as amended *or corrected* through ~~December 11, 2003~~, *July 20, 2004*, and 40 CFR Part 503 as adopted on August 4, 1999, are adopted by reference, except 40 CFR §61.20 to §61.26, §61.90 to §61.97, §61.100 to §61.108, §61.120 to §61.127, §61.190 to §61.193, §61.200 to §61.205, §61.220 to §61.225, and §61.250 to §61.256, and shall apply to the following affected pollutants and facilities and activities listed below. The corresponding 40 CFR Part 61 subpart designation is in parentheses. Reference test methods (Appendix B), compliance status information requirements (Appendix A), quality assurance procedures (Appendix C) and the general provisions (Subpart A) of Part 61 also apply to the affected activities or facilities.

ITEM 32. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended *or corrected* through ~~May 6, 2004~~ *January 10, 2005*, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purpose of this subrule, "hazardous air pollutant" has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an "area source" means any stationary source of hazardous air pollutants that is not a "major ~~stationary~~ source*"* as defined in this ~~paragraph~~ *subrule*. Paragraph 23.1(4)"a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 33. Amend subrule **23.1(4)** by adopting the following **new** paragraphs **"cd," "cp," "cz"** and **"dd"**:

cd. Emission standards for hazardous air pollutants for plywood and composite wood products (formerly plywood and particle board manufacturing). These standards apply to new and existing major sources with equipment used to manufacture plywood and composite wood products. This equipment includes dryers, refiners, blenders, formers, presses, board coolers, and other process units associated with the manufacturing process. This also includes coating operations, on-site storage and wastewater treatment. However, only certain process units (defined in the federal rule) are subject to control or work practice requirements. (Part 63, Subpart DDDD)

cp. Emission standards for surface coating of plastic parts and products. These standards apply to new and existing major sources with equipment used to coat plastic parts and

products. The surface coating application process includes drying/curing operations, mixing or thinning operations, and cleaning operations. Coating materials include, but are not limited to, paints, stains, sealers, topcoats, basecoats, primers, inks, and adhesives. (Part 63, Subpart PPPP)

cz. Emission standards for stationary reciprocating internal combustion engines (RICEs). These standards apply to new and existing major sources with stationary reciprocating internal combustion engines (RICEs). For purposes of these standards, RICE means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. (Part 63, Subpart ZZZZ)

dd. Emission standards for industrial, commercial and institutional boilers and process heaters. These standards apply to new and existing major sources with industrial, commercial or institutional boilers and process heaters. For purposes of these standards, a boiler is defined as an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water. Waste heat boilers, as defined in the federal rule, are excluded from these standards. For purposes of these standards, a process heater is defined as an enclosed device using controlled flame, that is not a boiler, and the unit's primary purpose is to transfer heat indirectly to a process material (liquid, gas, or solid) or to a heat transfer material for use in a process unit, instead of generating steam. Process heaters are devices in which the combustion gases do not directly come into contact with process materials. Process heaters do not include units used for comfort or space heat, food preparation for on-site consumption, or autoclaves. (Part 63, Subpart DDDDD)

ITEM 34. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are those specified in the "Compliance Sampling Manual"* adopted by the commission on May 19, 1977, as revised through January 30, 2003. Sampling methods, analytical determinations, minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are those found in Appendices A (as amended through March 12, 1996), B (as amended through ~~September 30, 1999~~ *January 12, 2004*) and F (as amended through ~~February 11, 1991~~ *January 12, 2004*) of 40 CFR Part 60, and Appendices A (as amended through ~~July 12, 1999~~ *August 16, 2002), and* B (as amended through ~~July 12, 1999~~ *September 9, 2002)*, ~~and H (as amended through May 17, 1995)~~ of 40 CFR Part 75.

*Available from the department.

ARC 4062B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 455B.304, 455B.306 and 455D.7, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 101, "Solid Waste Comprehensive Planning Requirements," Iowa Administrative Code.

These amendments, which pertain to solid waste comprehensive planning requirements, incorporate into Chapter 101 requirements from the document titled "Guidelines for Solid Waste Comprehensive Planning: Integrated Solid Waste Management Systems" (September 1990), as revised March 19, 2001, which had been previously adopted by reference in Chapter 101. These amendments update and consolidate the requirements for the benefit of the public.

The proposed amendments were written by the Department with the input of an advisory committee. This advisory committee consisted of representatives from the Iowa Society of Solid Waste Operators (ISOSWO), Iowa Recycling Association (IRA), private consultants, landfill operators and other interested parties.

Any interested person may make written suggestions or comments pertaining to these proposed amendments on or before April 6, 2005. Such written materials should be directed to Chad Stobbe, Energy and Waste Management Bureau, Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8895. Persons wishing to convey their views orally should contact Chad Stobbe at (515)242-5851.

When submitting comments, stakeholders are encouraged by the Energy and Waste Management Bureau to utilize the following guidelines. These guidelines aid the Bureau in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual, or for a business or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

A public hearing will be held over the Iowa Communications Network (ICN) on Wednesday, April 6, 2005, from 9:45 a.m. to 12:15 p.m., originating in the Education Department, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Additional ICN sites for the hearing are scheduled for the following locations:

Atlantic Public Library
507 Poplar
(main entrance, or door west of main entrance)
Atlantic

Maquoketa Valley Senior High School
Room 210
107 South Street
Delhi

North Iowa Area Community College - 1
Activity Center, Room 106
500 College Drive
Mason City

Iowa Lakes Community College
Fiber Optic Room 118
1900 N. Grand Avenue
Spencer

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Washington National Guard Armory
501 Highway 1 South
Washington

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of special needs.

These amendments are intended to implement Iowa Code sections 455B.304, 455B.306 and 455D.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 567—101.1(455B,455D) as follows:

567—101.1(455B,455D) Purpose~~,~~ *and* applicability ~~and authority~~.

101.1(1) No change.

101.1(2) Applicability. This chapter is intended to implement Iowa Code ~~section~~ *sections* 455B.306, subsection 1 through subsection 5, and subsection 6, paragraph "~~c~~ *e*," *455B.301A* and ~~Iowa Code section~~ 455D.3. ~~All other parts and subsections of Iowa Code section 455B.306 shall be addressed in permitting rules.~~

~~**101.1(3)** Authority. The commission has the authority to adopt rules regarding comprehensive planning pursuant to Iowa Code sections 455B.304 and 455D.7.~~

ITEM 2. Rescind rule **567—101.2(455B,455D)**.

ITEM 3. Amend rule 567—101.3(455B,455D) as follows:

Renumber rule **567—101.3(455B,455D)** as **567—101.2(455B,455D)**.

Amend the following definitions:

"Comprehensive plan ~~submittal—amendments~~ *amendment*" means a notification, filed between *comprehensive* plan updates, that the planning ~~area~~ *agency* seeks to change the participation or change the designated disposal ~~projects~~ *project(s)* as set out in the most recent approved *comprehensive* plan submittal.

"Comprehensive plan ~~submittal—updates~~ *update*" means a planning document that provides status reports on the integrated solid waste management system and *that* describes revision to the information and evaluation of the integrated solid waste management system and the proposed course of action for the next ~~six years~~ *two planning cycles*.

"Monowaste facility" means any permitted facility with special permit provisions which limit the site to a single solid waste including, but not limited to, coal combustion residue, construction and demolition debris, cement kiln dust ~~or~~ *and* foundry sand.

"Planning area" means the *combined jurisdiction of the* local governments and *the designated* sanitary disposal ~~projects~~ *project(s)* involved in ~~any aspect of the sanitary disposal projects' management of solid waste~~ *a comprehensive plan*. A planning area may include one or more sanitary disposal projects.

Rescind the following definitions:

~~"Comprehensive plan submittal—initial" means a first or new comprehensive plan filed with the department of natural resources pursuant to the provisions of Iowa Code section 455B.306.~~

~~"Plan cycle" means the length of time between each comprehensive plan submittal or each subsequent application for renewal of a previously issued permit. A plan cycle is typically three years in length.~~

Adopt the following **new** definitions:

"Consumer price index" means the measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. For the purpose of this chapter, consumer price index refers to All Urban Consumers (CPI-U), Midwest Region, All Items, as published by the U.S. Bureau of Labor Statistics.

"Contaminated soil" means soil(s) that contains any harmful constituent in great enough concentration to harm human health.

"Fiscal year" means the state fiscal year from July 1 through June 30.

"Initial comprehensive plan" means a first or new comprehensive plan filed with the department of natural resources pursuant to the provisions of Iowa Code section 455B.306.

"Planning agency" means the designated contact agency on file with the department.

"Planning cycle" means the length of time between the due date for each comprehensive plan update submittal as approved by the department, which is the same frequency as sanitary disposal project permitting.

ITEM 4. Renumber rule **567—101.4(455B,455D)** as **567—101.3(455B,455D)**.

ITEM 5. Amend rule 567—101.5(455B,455D) as follows:

567—~~101.5~~ *101.4*(455B,455D) Duties of cities and counties. Every city and county of this state shall, for the solid waste generated within the jurisdiction of its political subdivision, provide for the establishment and operation of an integrated solid waste management system consistent with the waste management hierarchy under rule 567—~~101.4~~ *101.3*(455B,455D) and designed to meet the state's waste reduction and recycling goals. Integrated systems and sanitary disposal projects may be established separately or through cooperative efforts, including Iowa Code chapter 28E agreements as provided by law.

To meet these responsibilities, cities and counties may execute, with public and private agencies, contracts, leases, or other necessary instruments, purchase land and do all things necessary not prohibited by law for the implementation of waste management programs, collection of solid waste, establishment and operation of sanitary disposal projects, and general administration of the same.

If a city or county facility refuses any particular solid waste type for management or disposal, ~~it~~ *the city or county facility* must identify another waste management facility for that waste within the planning area. In the case of special waste, if no other waste management facility for that waste type exists within the planning area, the city or county must, in cooperation with the waste generator, establish or arrange for access to ~~one~~ *another waste management facility. Sanitary disposal projects are required to maintain written approval from both the department and the planning area of origin in order to accept any Iowa-generated waste from outside the planning area.*

All cities and counties or Iowa Code chapter 28E agencies ~~representing~~ *established for the purpose of managing solid waste or implementing integrated solid waste management systems, or both, on behalf of* cities and counties shall dem-

onstrate compliance with the provisions of this chapter by their participation in a comprehensive ~~solid waste management~~ plan approved by the department ~~of natural resources~~.

ITEM 6. Renumber rule **567—101.6(455B,455D)** as **567—101.5(455B,455D)**.

ITEM 7. Amend rule 567—101.7(455B,455D) as follows:

567—~~101.7~~ *101.6*(455B,455D) State volume reduction and recycling goals. The goal of the state is to reduce the amount of materials in the waste stream existing as of the July 1, 1988, baseline, 25 percent by July 1, 1994, and 50 percent by July 1, 2000, through the practice of waste volume reduction at the source and through recycling. The updated ~~waste abatement~~ *goal progress* calculations ~~submitted~~ *provided* by *the department for* each ~~comprehensive~~ planning area shall be used by the department in reporting to the general assembly on the state's progress toward meeting the 25 and 50 percent goals. If at any time the department ~~determines~~ *notifies the planning agency in writing* that ~~a~~ *the* planning area has failed to meet the 25 percent waste volume reduction and recycling goal, ~~the planning area shall,~~ at a minimum, ~~implement~~ the solid waste management techniques listed in Iowa Code section 455D.3(4) and subrule ~~101.8(5)~~ *101.12(9) must be implemented throughout the planning area*. The specific methodology for determining goal progress is ~~described in the "Guidelines for Solid Waste Comprehensive Plans: Integrated Solid Waste Management Systems" for goal progress calculations~~ *outlined in rule 567—101.7(455B,455D).*

ITEM 8. Adopt the following **new** rule 567—101.7(455B,455D):

567—101.7(455B,455D) Base year adjustment method. Using the base year adjustment method, the department will perform a goal progress calculation 12 months prior to the due date of the comprehensive plan update for each planning cycle. This goal progress calculation provided 12 months prior to the due date of the comprehensive plan update is for planning purposes only and is to be used to evaluate progress toward the state's waste volume reduction and recycling goals. Planning agencies may request that the department complete a goal progress recalculation once per fiscal year to resolve any discrepancies and to further evaluate progress toward the state's waste volume reduction and recycling goals. At the time of approval of a comprehensive plan or comprehensive plan update, the department will use the most current complete fiscal year data set available to complete goal progress calculations, which will be used to meet the requirements outlined in subrule 101.12(9) and rule 567—101.13(455B, 455D).

101.7(1) The base year adjustment method (see Formula 1) controls for population, employment, and taxable sales to more accurately determine progress toward the state's waste volume reduction and recycling goals. Factors included within the base year adjustment method include:

a. Base year residential waste disposal tonnage − (A).

b. Base year commercial waste disposal tonnage − (B).

c. Base year population data (U.S. Bureau of the Census) − (C).

d. Base year employment data − total nonfarm (Iowa Department of Workforce Development) − (D).

e. Base year taxable sales data (Iowa Department of Revenue) − (E).

f. Base year consumer price index − (F).

g. Most current complete fiscal year data set available for waste disposal tonnage − (G).

h. Most current complete fiscal year data set available for population (U.S. Bureau of the Census) − (H).

i. Most current complete fiscal year data set available for employment − total nonfarm (Iowa Department of Workforce Development) − (I).

j. Most current complete fiscal year data set available for taxable sales (Iowa Department of Revenue) − (J).

k. Most current complete fiscal year data set available for consumer price index − (K).

Formula 1

$$100\% - \left[\frac{G}{A\left[\frac{\frac{H}{C} + \left[\frac{\frac{I}{D} + \frac{J\frac{F}{K}}{E}}{2}\right]}{2}\right] + B\left[\frac{\frac{I}{D} + \left[\frac{J\frac{F}{K}}{E}\right]}{2}\right]} \right] \times 100\%$$

101.7(2) Planning agencies must document the amount of waste disposed in both the base year and the most current fiscal year where a complete data set is available. If no changes have occurred within the planning area that would affect the base year, then only data for the most current fiscal year for which a complete data set is available need to be presented in prior comprehensive plan submittals. Tonnage data sources that each planning agency must identify include, but are not limited to:

a. Landfill(s) within the planning area and its respective service area(s).

b. Transfer station(s) or hauler(s) transporting waste into or out of the planning area for final disposal.

c. Incineration with or without energy recovery of waste within the planning area.

d. Allowable base year adjustment method exemptions, including exceptional events, waste originating from out of state, and solid waste generated outside the planning area.

101.7(3) Waste generated as part of an exceptional event should not negatively affect a planning area's goal progress calculation.

a. Exceptional events include, but are not limited to, such unforeseen disasters as storms, fires, floods, tornadoes, or train wrecks. Exceptional events do not include economic development, derelict housing removal, or other planned activities/demolitions. Written requests to exempt exceptional event debris from goal progress calculations shall be made to the department on the required Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276.

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Requests for goal progress calculation exemptions must be made within six months after initial disposal of the debris. The determination to exempt exceptional event debris from goal progress calculations shall be made solely by the department and shall not be made independently by individual sanitary disposal projects or planning agencies. Sanitary disposal projects required to remit tonnage fees shall continue to pay solid waste tonnage fees until written notification of fee exemption is received, at which time any applicable fee credit shall be granted by the department. Upon review of the request, the department will notify the sanitary disposal project and planning agency of the determination in writing or request further documentation.

(1) Exemption requests shall, at a minimum, include:

1. Date(s) of duration of the exceptional event.
2. Type of event (i.e., flood, tornado, combination thereof).
3. Description of affected area(s), including approximate number of buildings and addresses, if available.
4. Type(s) of waste to be exempted.
5. Actual tonnage of debris disposed of during the quarter.
6. Preliminary estimate of the total tonnage to be exempted (i.e., tons already disposed of and potential tons to be disposed of in future quarters).

(2) Additional documentation to verify the exceptional event and the debris it generated may be requested by the department. Failure to submit requested documentation may result in denial of the goal progress calculation or solid waste tonnage fee exemption request(s), including any fee credits authorized by the department. Documentation may include:

1. Protocol used by the sanitary disposal project staff for determining which waste(s) coming into the facility was attributed to the exceptional event.
2. Summary of existing policies to divert storm debris from disposal, as well as the amount of waste(s) diverted.
3. Copies of scale tickets and summary report of scale tickets.
4. Federal Emergency Management Agency (FEMA) reports, if any.
5. Newspaper articles or pictures of affected areas.
6. Supporting documentation indicating estimated remaining tonnage expected as a result of the exceptional event (i.e., supporting documentation from local insurance companies or municipal building inspectors).
7. Contact information for the person(s) responsible for compiling the exceptional event report(s).

b. If the governor of the state of Iowa declares a city or county a disaster area as a result of an exceptional event, the sanitary disposal project or planning agency may request that the debris be exempt from solid waste tonnage fees. A request to waive tonnage fees must be submitted in writing on the facility's or planning agency's letterhead prior to or in the same submittal as the Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276. Requests to waive tonnage fees, as provided for in this rule, must be made within 6 months after the initial disposal of the debris. A copy of the proclamation of disaster emergency declared by the governor of the state of Iowa is required in order for approval of tonnage fee exemptions. Any continuing documentation shall be submitted with each Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276, within the length of time authorized by the department. Solid waste disposed of outside the window of time authorized by the department shall not be eligible for exemption. To be eligible for an exemption, all exceptional event waste must be disposed of within the following time lines:

(1) For debris clearance and emergency protective measures, as defined by FEMA guidelines, 6 months from the end of the exceptional event.

(2) For permanent repair work, as defined by FEMA guidelines, 18 months from the end of the exceptional event.

Upon written request, with supporting rationale, extensions to these time lines may be granted solely by the department on a case-by-case basis.

c. Contaminated soils removed as part of a brownfield or contaminated site cleanup should not negatively affect a planning area's goal progress calculation. If the contaminated soil is to be disposed of in a sanitary disposal project, the sanitary disposal project or planning agency must request the goal progress exemption in writing, in accordance with the procedures outlined in this rule. Written requests to exempt contaminated soil from goal progress calculations shall be made to the department on the Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276. Requests for goal progress exemptions must be made within 6 months after initial disposal of the contaminated soil.

The determination to exempt contaminated soil from goal progress calculations shall be made solely by the department and shall not be made independently by individual sanitary disposal projects or planning agencies. The department shall notify the sanitary disposal project or planning agency in writing of the determination or shall request further clarification to make an exemption decision. Failure to submit additional information requested by the department regarding the request to exempt contaminated soil may result in a denial of the goal progress calculation exemption request. Contaminated soil occurrences not eligible for goal progress exemption include, but are not limited to, illegal municipal solid waste disposal sites and contaminated soils formed for the sole purpose of requesting goal progress exemption. Exemption requests shall include, at a minimum, the following:

(1) Contact information of the primary and any other government agency overseeing or involved with site cleanup.

(2) Address of the brownfield or contaminated site.

(3) Date(s) when the site was believed to have been contaminated, if known.

(4) Type of operation and owners of the operation that led to the contamination, if known.

(5) Constituents of concern present in the soil.

(6) Types of miscellaneous waste mixed with the soil, if any.

(7) Appropriate testing for identified contaminants of the contaminated soil.

(8) Actual tonnage of contaminated soil disposed of during the quarter.

(9) Preliminary estimate of the total tonnage to be exempted (i.e., tons of contaminated soil already disposed of and potential tons to be disposed of in future quarters).

(10) Narrative justification to explain why disposal in a sanitary disposal project is the best site cleanup methodology.

ITEM 9. Rescind rule 567—101.8(455B,455D) and adopt the following **new** rule in lieu thereof:

567—101.8(455B,455D) Submittal of initial comprehensive plans and comprehensive plan updates. Initial comprehensive plans and comprehensive plan updates filed with the department must include a signed electronic submission certificate, which can be printed once all online forms have been submitted to the department for review. When hard-

copy portions of the initial comprehensive plan or comprehensive plan update are submitted to the department, an original and two copies are necessary. Initial comprehensive plans and comprehensive plan updates are required to be double-sided and cannot be submitted in three-ring binders. Comprehensive plan updates shall be submitted in accordance with the schedule, as provided by the department 12 months prior to the due date of the first comprehensive plan update for each planning cycle. Planning agencies are not required to submit hard copies of the online forms for comprehensive plan submittal.

ITEM 10. Rescind rule 564—101.9(455B,455D) and adopt the following **new** rule in lieu thereof:

567—101.9(455B,455D) Review of initial comprehensive plans and comprehensive plan updates. Initial comprehensive plans and comprehensive plan updates submitted in accordance with rule 567—101.12(455B,455D) shall be reviewed by the department for compliance with this chapter. The director may reject, suggest modification of, or approve a comprehensive plan based upon the criteria outlined in rule 567—101.12(455B,455D). A comprehensive plan shall not be approved if any of the local governments or sanitary disposal projects participating in the comprehensive plan are not in compliance with all applicable solid waste regulations or a department-approved compliance schedule.

ITEM 11. Adopt the following **new** rule 567—101.10(455B,455D):

567—101.10(455B,455D) Municipal solid waste and recycling survey. During each planning cycle, local governments are required to complete and submit the Municipal Solid Waste and Recycling Survey, DNR Form 542-8134. The department will not provide access to the comprehensive planning online database, described further in rule 567—101.11(455B,455D), until the department receives copies of all completed Municipal Solid Waste and Recycling Survey forms from the planning area. The department will contact each planning agency 12 months prior to the due date of the comprehensive plan update to determine the planning agency's preferred Municipal Solid Waste and Recycling Survey option. To facilitate the completion, submittal and data input of the Municipal Solid Waste and Recycling Survey form, the methodology as set forth in one of the following subrules shall be used:

101.10(1) The department shall distribute the Municipal Solid Waste and Recycling Survey forms to the planning area's member communities. The department will input the data into the online database after receiving all completed Municipal Solid Waste and Recycling Survey forms from a planning agency. Once all data is inputted into the online database, the department will, upon request, provide copies of the completed Municipal Solid Waste and Recycling Survey forms to the planning agency.

101.10(2) The department shall distribute the Municipal Solid Waste and Recycling Survey forms to the planning area's member communities. The planning agency will receive and input the data into the online database.

101.10(3) The planning agency shall distribute the Municipal Solid Waste and Recycling Survey forms to its member communities. The planning agency will receive and input the data into the online database.

101.10(4) The planning agency shall distribute the Municipal Solid Waste and Recycling Survey forms to its member communities. The department will input the data into the online database after receiving all completed Municipal Solid Waste and Recycling Survey forms. Once all data is inputted into the online database, the department will, upon request, provide copies of the completed Municipal Solid Waste and Recycling Survey forms to the planning agency.

ITEM 12. Adopt the following **new** rule 567—101.11(455B,455D):

567—101.11(455B,455D) Online database. In accordance with rule 567—101.10(455B,455D), the following comprehensive plan data must be completed and submitted into the online database developed by the department. This database may be accessed, with the proper credentials, via the department's Web site. The following online forms must be completed prior to comprehensive plan approval by the department:

- Choose a City, DNR Form 542-8136.
- Recycling and Waste Collection, DNR Form 542-8137.
- Recycling and Waste Haulers, DNR Form 542-8138.
- Diverted Materials Collection, DNR Form 542-8139.
- Commercial Recycling, DNR Form 542-8140.
- Residential Recycling Program, DNR Form 542-8141.
- Yard Waste Management Programs, DNR Form 542-8142.
- Drop-off Recycling Sites, DNR Form 542-8143.
- Yard Waste Management Sites, DNR Form 542-8144.
- Board Members, DNR Form 542-8145.
- Boards, DNR Form 542-8146.
- Permitted Facilities, DNR Form 542-8147.
- Contacts, DNR Form 542-8148.
- Planning Area Description, DNR Form 542-8149.

ITEM 13. Adopt the following **new** rule 567—101.12(455B,455D):

567—101.12(455B,455D) Types of comprehensive plan submittals to be filed. Public or private entities operating or planning to operate a sanitary disposal project in Iowa shall, in conjunction with all local governments using the sanitary disposal project, meet all comprehensive plan submittal requirements described in this rule. There are three types of comprehensive plan submittals: initial, updates, and amendments. The purpose of these types of comprehensive plans is the development of a specific plan and schedule for implementing technically and economically feasible solid waste management methods that will prevent or minimize any adverse environmental impact and meet the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D).

Cities and counties planning to use a sanitary disposal project in Iowa must participate in a comprehensive plan with all other cities and counties using that sanitary disposal project. Cities and counties planning to use an out-of-state disposal facility(ies) must file a comprehensive plan that identifies the out-of-state facility(ies) used. Cities or counties using an out-of-state disposal facility(ies) are still required to meet all comprehensive plan submittal requirements.

If it is demonstrated to the department that any of the provisions outlined in paragraphs "1" through "3" below will not impact the planning area significantly, then the department may consider accepting a comprehensive plan amendment. This chapter also provides the comprehensive planning requirements that apply to composting, recycling, processing, monowaste, monogenerator, transfer station, and medical waste incineration facilities. If during the planning cycle a

change occurs to an existing planning area, the submission of an initial comprehensive plan may be required. An initial comprehensive plan is needed if:

1. A new planning area is established.
2. A change increases or decreases the population or the disposal tonnage of the planning area by more than 30 percent.
3. The solid waste disposal method has changed or a new method has been initiated, including siting of a new municipal solid waste landfill or municipal solid waste incinerator.

101.12(1) Content of an initial comprehensive plan. In fulfillment of the requirements of Iowa Code section 455B.301A and Iowa Code chapter 455D, an initial comprehensive plan shall include the following information:

a. A description of the planning area and the public and private agencies involved in the integrated solid waste management system, including a description of each agency's role in managing solid waste generated in the area.

b. A resolution or resolutions from all local governments or 28E agencies established for the purpose of managing solid waste or implementing integrated solid waste management systems, or both, on behalf of local governments, and letters of cooperation from private sanitary disposal projects participating in the comprehensive plan. The resolution(s) shall include a statement that the comprehensive plan participants have reviewed the initial comprehensive plan and will adopt the implementation schedule contained within the initial comprehensive plan. Letters of cooperation from private agencies shall include a statement that the private agencies have reviewed the comprehensive plan and support the waste volume reduction and recycling efforts outlined therein. The letter of cooperation shall briefly summarize the implementation schedule. If a local government included in the planning area refuses to provide a resolution, then that local government must prepare its own comprehensive plan and is no longer considered to be in the original planning area. In such cases, the original comprehensive plan may still be approved if it includes a brief addendum stating the effect of the change on the waste stream, but the sanitary disposal project(s) in the planning area may no longer accept waste from the local government that has withdrawn from the comprehensive plan. Private sanitary disposal projects failing to provide letters of cooperation will be unable to receive a permit or permit renewal. If a city, county, or other public agency complies with comprehensive planning requirements by means of a contract(s) with an agency holding a sanitary disposal project permit or with a hauler(s) that has a contract(s) with an agency holding a sanitary disposal project permit, a list of those contracts shall be submitted as provided in rule 567—101.5(455B,455D).

c. A detailed description of public participation, including:

(1) Details of ongoing strategies to provide the public with opportunities to provide input.

(2) A list of all public hearings or meetings that were held in conjunction with the development of the initial comprehensive plan and the methods used to publicize public meetings on the initial comprehensive plan.

(3) An account of opportunities for the public to comment on the initial comprehensive plan and minutes from any meetings regarding initial comprehensive plan development.

(4) Proof that a minimum of two public meetings were held during the development of the initial comprehensive plan. The first meeting shall inform the public of the initial comprehensive plan development process, while the second meeting shall provide the public with an opportunity for review and comment on the initial comprehensive plan.

d. A description of past local and regional planning activities.

e. A report of the base year waste stream in total tons per year. Progress toward meeting the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D) shall be demonstrated through methods described in this chapter.

f. A description of population, employment, and industrial production as of the planning area's base year waste stream.

g. A description of the current waste composition and waste generation rates and a projection of waste composition and waste generation rates spanning two planning cycles. This description should include the effects of anticipated planning area modifications on waste generation and composition in the future. These factors may include economic changes, population changes, loss or addition of communities to the planning area, and any other modification expected to affect the amount of waste generated.

h. A description of the current integrated solid waste management system that contains a specific methodology for meeting the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D). This description shall include:

(1) Details of strategies and educational efforts designed to:

1. Increase public awareness about proper recycling and disposal options for motor oil and lead-acid batteries.
2. Encourage residents of the planning area to dispose of household appliances properly.
3. Encourage tire stewardship and proper tire recycling and disposal.
4. Encourage backyard composting and proper management of yard waste.
5. Encourage residents of the planning area to properly manage household hazardous waste.

(2) A list of collector(s)/recycler(s) used by the permitted sanitary disposal project(s) for the proper management of tires and household appliances.

(3) A detailed narrative of all other existing waste management programs in the planning area that addresses all components of the state's waste management hierarchy. This narrative must include specific methodologies for the separation of glass, paper, plastic and metal. For each specific waste management program, the following shall be included:

1. Program description.
2. Responsibility for program oversight.
3. Funding source(s).
4. Public education strategies employed.
5. Targeted audiences (business and industry, urban residents, rural residents, local governments, and public institutions).
6. The anticipated impact on the waste stream and diversion over at least two planning cycles.

(4) A discussion of the strengths and weaknesses of existing programs, efforts and strategies in the current integrated solid waste management system.

(5) An evaluation of the planning area's progress toward meeting the state's waste volume reduction and recycling goals. This evaluation shall address the goal progress calculation that was most recently provided in writing by the department. The department, upon written notification of intent to submit an initial comprehensive plan, will, within 30 days after receipt of notification, perform a goal progress cal-

culation using the most current complete fiscal year data set available.

i. An assessment of alternative waste management systems, programs and strategies that addresses each of the following tiers of the state's waste management hierarchy:

(1) Source reduction options including, but not limited to, backyard composting and management of household hazardous waste.

(2) Recycling and reuse options.

(3) Combustion options with or without energy recovery. Any programs using incineration, with or without energy recovery, must include methodologies for prior removal of recyclable and reusable material, material that will result in uncontrolled toxic or hazardous air emissions when burned, and hazardous or toxic materials which are not rendered nonhazardous or nontoxic by incineration.

(4) Use of other existing or planned sanitary landfills or transfer stations.

j. If construction of a new or purchase of an existing sanitary disposal project is considered or proposed, an initial comprehensive plan shall include:

(1) A summary of established and anticipated regulatory requirements regarding future siting, operation, closure and postclosure of each facility.

(2) A financial plan detailing the actual cost of the sanitary disposal project, including the funding sources of the project, and a description that spans two planning cycles of the methods of financing. The financial plan shall address:

1. Initial capital expenditures, including land acquisition, if applicable.

2. Local approval costs, including legal, engineering, and administrative fees.

3. Long-term costs, operations, closure and postclosure.

4. A mechanism to fund closure and postclosure costs.

5. Projected annual revenues.

(3) A description of expected environmental impacts from the construction of a new or purchase of an existing sanitary disposal project.

(4) If the comprehensive plan includes a new sanitary landfill or an expansion that requires a new permit or a permit amendment, then the following information shall be included:

1. A comprehensive listing of plant and animal species. In preparing the listing, the permit applicant shall contact the department's Iowa natural areas inventory with a request to search its records to determine the presence of or habitat for any threatened or endangered species or communities and any forests, prairies or wetlands. In the event that the department's Iowa natural areas inventory does not contain records of rare species or communities but their presence is suspected, the permit applicant may be required to conduct an approved site survey.

2. A determination of the presence of and assessment of the impact on any archaeologically, historically, or architecturally significant properties on the proposed site. To assess the impact, the permit applicant must consult with the historic preservation bureau of the Iowa state historical society.

k. A specific plan and schedule spanning two planning cycles for implementing the initial comprehensive plan. Items that shall be addressed include:

(1) Proposed activities and locations.

(2) Responsible organization(s).

(3) Implementation milestones.

(4) Public education strategies.

(5) Anticipated impact on the waste stream and diversion.

101.12(2) Comprehensive plan updates for permitted municipal solid waste landfills, construction and demolition waste disposal sites, and transfer stations. The department shall notify a planning agency of the due date of the comprehensive plan update submittal a minimum of 12 months prior to the beginning of the planning cycle. In fulfillment of the requirements of Iowa Code section 455B.301A and Iowa Code chapter 455D, a comprehensive plan update shall include the following information:

a. A narrative that describes any permanent change in the planning area that has resulted in change in the waste stream, if applicable. An amendment to the comprehensive plan update is required prior to the facility's receiving waste on an ongoing basis from outside the delineated planning area.

b. A resolution or resolutions from all local governments or 28E agencies established for the purpose of managing solid waste or implementing integrated solid waste management systems, or both, on behalf of local governments, and letters of cooperation from private sanitary disposal projects participating in the comprehensive plan update. The resolution(s) shall include a statement that the comprehensive plan participants have reviewed the comprehensive plan update and will adopt the implementation schedule contained in the comprehensive plan update. Letters of cooperation from private agencies shall include a statement that they have reviewed the comprehensive plan update and support the waste reduction and recycling efforts outlined therein. The letter of cooperation shall briefly summarize the implementation schedule. If a local government included in the planning area refuses to provide a resolution, then that local government must prepare its own comprehensive plan and is no longer considered to be in the original planning area. In such cases, the original comprehensive plan update may still be approved if it includes a brief addendum stating the effect of the change on the waste stream, but the sanitary disposal project(s) in the planning area may no longer accept waste from the local government that has withdrawn from the comprehensive plan. Private sanitary disposal projects failing to provide letters of cooperation will be unable to receive a permit or permit renewal. If a city, county, or other public agency complies with comprehensive planning requirements by means of a contract(s) with an agency holding a sanitary disposal project permit or with a hauler(s) that has a contract(s) with an agency holding a sanitary disposal project permit, a list of those contracts shall be submitted as provided in rule 567—101.5(455B,455D).

c. A description of public participation, including:

(1) A summary of ongoing strategies to provide the public with opportunities to provide input.

(2) A list of all public hearings or meetings that were held in conjunction with the development of the comprehensive plan update and the methods used to publicize public meetings.

(3) Proof that a minimum of two public meetings were held during the development of the comprehensive plan update. The first meeting shall inform the public of the comprehensive plan update development process, while the second meeting shall provide the public with an opportunity for review and comment on the comprehensive plan update.

(4) An account of opportunities for the public to comment on the comprehensive plan update and minutes from any meetings regarding comprehensive plan update development.

d. A report of the base year waste stream in total tons per year. This base year data and landfill tonnage information for

the most current completed fiscal year data set available will be used to demonstrate progress toward meeting the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D) through methods described in this chapter.

e. A description of changes in population, employment, and industrial production since the last approved comprehensive plan or comprehensive plan update.

f. A description of current waste composition and waste generation rates, including:

(1) Changes since the last approved comprehensive plan or comprehensive plan update.

(2) The effects of anticipated planning area modifications on waste generation and composition in the future. These factors may include economic changes, population changes, loss or addition of communities to the planning area and any other modification expected to affect the amount of waste generated.

g. A discussion of changes to the integrated solid waste management system since the last approved comprehensive plan or comprehensive plan update, including:

(1) New and evolving strategies, efforts, and programs implemented within the planning area to:

1. Increase public awareness about proper recycling and disposal options for motor oil and lead-acid batteries.

2. Encourage residents of the planning area to dispose of household appliances properly.

3. Encourage tire stewardship and proper tire recycling and disposal.

4. Encourage backyard composting and proper management of yard waste.

5. Encourage residents of the planning area to properly manage household hazardous waste.

6. Provide for the separation of glass, paper, plastic and metal.

(2) A list of collector(s)/recycler(s) used by the permitted sanitary disposal project(s) for the proper management of tires and household appliances.

(3) A detailed narrative of all waste management programs implemented since the last approved comprehensive plan or comprehensive plan update that addresses all components of the state's waste management hierarchy. For each specific waste management program implemented since the last approved comprehensive plan or comprehensive plan update, the following shall be included:

1. Program description.

2. Responsibility for program oversight.

3. Public education strategies employed.

4. Targeted audiences (business and industry, urban residents, rural residents, local governments, and public institutions).

5. The anticipated impact on the waste stream and diversion over at least two planning cycles.

h. An evaluation of progress toward meeting the state's waste volume reduction and recycling goals using the goal progress calculation provided by the department 12 months prior to the due date of the comprehensive plan update. This analysis may use any combination of the following methodologies:

(1) Trend analysis of goal progress since the initial comprehensive plan.

(2) Formal, stakeholder-based collaborative goal-setting process leading to development of long-range integrated solid waste management system goals. The process shall include development of detailed objective-based strategies to achieve the desired goals. If programs have been implemented since the establishment of the goals, the comprehensive plan update shall include analysis of their impact on the long-range goals.

(3) An analysis of the effectiveness or benefit of existing programs, individually and in aggregate, including a discussion of opportunities and need for improvement, modification or expansion.

i. Analysis of the impact of alternative solid waste management methods not currently employed, but being considered within the planning area.

j. A specific plan and schedule spanning two planning cycles for implementing the comprehensive plan. Items that shall be addressed include:

(1) Proposed activities and locations.

(2) Responsible organization(s).

(3) Implementation milestones.

(4) Public education strategies.

(5) Anticipated impact on the waste stream and diversion.

101.12(3) Transfer stations and construction and demolition waste disposal sites. If a transfer station or a construction and demolition waste disposal site as defined in 567—Chapter 100 is not part of an existing comprehensive plan, then each facility must submit its own comprehensive plan. A transfer station that takes solid waste generated within Iowa and transports all of it out of state for disposal shall meet the comprehensive planning requirements by filing an operational plan with the department in accordance with 567— paragraph 106.8(1)"k" and by submitting quarterly reports to the department in accordance with rule 567—106.14(455B,455D).

101.12(4) Comprehensive plan updates for permitted monowaste facilities. If monowaste facilities are not part of an existing comprehensive plan, they must submit their own comprehensive plan. Comprehensive plan updates for these facilities shall include:

a. Service area descriptions. These descriptions shall include:

(1) Information about where the landfilled waste(s) is generated, including information about each facility using the landfill, and a description of what waste(s) is being landfilled from each facility. This information and description shall:

1. Provide an explanation of the process(es) in which the waste(s) is generated.

2. Describe why the current management method was chosen.

(2) An evaluation of the environmental impact of this management method.

(3) If the landfill accepts waste(s) from more than one company, letters of cooperation from each company are required. These letters of cooperation express the company's willingness to work toward the waste reduction and recycling goals outlined in the comprehensive plan.

b. A description of all waste(s) managed by the permitted facility, including:

(1) Landfilled waste at the permitted facility, which includes:

1. Annual tonnage of each type of waste based upon the fiscal year; and

2. Current waste composition. A breakdown by percentage of all waste(s) shall be included.

(2) The amount of waste reused and recycled.

(3) Projected tonnage spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.

(4) Projected waste composition spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.

(5) Units-of-production for the current fiscal year to normalize waste generation for changes in production in order to evaluate progress toward meeting the state's solid waste volume reduction and recycling goals.

c. Base year tonnage information (the later of fiscal year 1988 tonnage landfilled or first year in operation), including:

(1) Only the waste(s) that is landfilled in the permitted monowaste facility and not all waste(s) generated.

(2) Units-of-production for the base year.

d. Alternatives analysis, which shall:

(1) Include details of how the waste(s) is recycled or reused.

(2) Describe the alternatives or other options that were explored or considered for each type of waste landfilled. If alternatives are not feasible at this time, information explaining why the alternatives are not feasible shall be provided.

(3) Indicate the opportunities that exist for source reduction of waste(s).

(4) Indicate the opportunities that exist for recycling.

(5) Indicate the opportunities that exist for reuse of the waste(s).

e. A report on other waste(s) managed at the facility, including but not limited to:

(1) A description of how other waste(s) is managed, including final disposal.

(2) A description of recycling programs employed.

f. Implementation time line spanning two planning cycles, which shall:

(1) Outline plans for increasing recycling/reuse of waste or decreasing the amount landfilled.

(2) Include planned activities spanning two planning cycles. Long-term projects should indicate milestones throughout the time span.

101.12(5) Comprehensive plan updates for permitted monogenerator facilities. If a monogenerator facility is not part of an existing comprehensive plan, then the facility must submit its own comprehensive plan. Comprehensive plan updates for these facilities shall include:

a. A service area description, including information about where the landfilled waste is generated, and an explanation of the process(es) in which the waste(s) is generated. This description and explanation shall:

(1) Describe why the current management method was chosen; and

(2) Evaluate the environmental impact of this management method.

b. A description of all waste(s) managed by the permitted facility, including:

(1) Landfilled waste at the permitted sanitary disposal project, which includes:

1. Annual tonnage of each type of waste(s) based upon the fiscal year; and

2. Current waste composition. A breakdown by percentage of all waste(s) shall be included.

(2) The amount of waste being reused or recycled.

(3) Projected tonnage spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.

(4) Projected waste composition spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.

(5) Units-of-production for the current fiscal year to normalize waste generation for changes in production in order to evaluate progress toward meeting the state's solid waste volume reduction and recycling goals.

c. Base year tonnage information (the later of fiscal year 1988 tonnage landfilled or first year in operation), including:

(1) Only the waste(s) that is landfilled in the permitted monogenerator facility and not all waste(s) generated.

(2) Units-of-production for the base year.

d. Alternative analysis, which shall:

(1) Include details of how the waste(s) is recycled or reused.

(2) Describe the alternatives or other options that were explored or considered for each type of waste landfilled. If alternatives are not feasible at this time, information explaining why the alternatives are not feasible shall be provided.

(3) Indicate the opportunities that exist for source reduction of the waste(s).

(4) Indicate the opportunities that exist for recycling.

(5) Indicate the opportunities that exist for reuse of the waste(s).

e. A report on other waste(s) managed at the facility, including but not limited to:

(1) A description of how other waste(s) is managed, including final disposal.

(2) A description of recycling programs employed.

f. Implementation time line spanning two planning cycles, which shall:

(1) Outline plans for increasing recycling/reuse of waste and decreasing the amount landfilled.

(2) Include planned activities spanning two planning cycles. Long-term projects should indicate milestones throughout the time span.

101.12(6) Comprehensive plan updates for permitted incinerators. If a permitted incinerator is not part of an existing comprehensive plan, then the facility must submit its own comprehensive plan. Comprehensive plan updates for these facilities shall include:

a. A service area description, including information about where the incinerated waste(s) is generated, and an explanation of the process(es) in which the waste(s) is generated. If applicable, certification that only infectious waste as defined by Iowa Code section 455B.501 is being treated. This description and explanation shall:

(1) Describe why the current management method was chosen; and

(2) Evaluate the environmental impact of this management method.

b. A description of all waste(s) incinerated at the permitted facility, including:

(1) Annual tonnage of each type of waste(s) based upon the fiscal year; and

(2) Current waste composition. A breakdown by percentage of all waste(s) incinerated shall be included.

c. Of the total amount of waste(s) generated, the following shall be included:

(1) The amount of waste landfilled; and

(2) The amount of waste reused or recycled.

d. Projected tonnage spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.

e. Projected waste composition spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.

f. Units-of-production for the current fiscal year to normalize waste generation for changes in production in order to evaluate progress toward meeting the state's solid waste volume reduction and recycling goals.

g. Base year tonnage information (the later of fiscal year 1988 tonnage landfilled or first year in operation), including:

(1) Only the waste(s) that is incinerated at the permitted incineration facility and not all waste(s) generated.

(2) Units-of-production for the base year.

h. Alternative analysis, which shall:

(1) Include details of how the incinerated waste(s) is recycled or reused.

(2) Describe the alternatives or other options that were explored or considered for each type of waste incinerated. If alternatives are not feasible at this time, information explaining why the alternatives are not feasible shall be provided.

(3) Indicate the opportunities that exist for source reduction of the waste(s).

(4) Indicate the opportunities that exist for recycling.

(5) Indicate the opportunities that exist for reuse of the waste(s).

i. A report on other waste(s) managed at the facility, including but not limited to:

(1) A description of how other waste(s) is managed, including final disposal.

(2) A description of recycling programs employed.

j. Implementation time line spanning two planning cycles, which shall:

(1) Outline plans for increasing recycling/reuse of waste and decreasing the amount incinerated.

(2) Include planned activities spanning two planning cycles. Long-term projects should indicate milestones throughout the time span.

101.12(7) Comprehensive plan amendments. If a sanitary disposal project or city or county requests to be included in a planning area after completion of an initial comprehensive plan or a comprehensive plan update but before the next comprehensive plan update is due, and the planning area participants agree to include the city, county, or sanitary disposal project, the following procedure is required:

a. A letter must be submitted to the department by the facility operator describing the facility's operation and the amount of waste to be managed, or by the city or county describing that local government's intention to participate in the specified comprehensive plan.

b. In a letter that must be submitted to the department, the planning agency must agree to accept the city, county, or sanitary disposal project in the planning agency's planning area and must state how the change will affect the planning area's waste stream, including an explanation of the change in the planning area, the amount of waste involved and details of waste reduction and recycling efforts that will be implemented in any new communities, if applicable.

c. The next comprehensive plan update submitted by the planning agency shall include the amended city, county or sanitary disposal project.

d. If a city or county joins a planning area, a resolution must be submitted to the department stating the city's or county's commitment to the comprehensive plan of the planning area, and stating that the city or county will work to implement the comprehensive plan of the planning area.

101.12(8) Failure to meet the 25 percent waste volume reduction and recycling goal. If at any time the department notifies a planning agency in writing that the planning area has failed to meet the 25 percent waste volume reduction and recycling goal, then, at a minimum, the solid waste management techniques listed in Iowa Code section 455D.3(4) must be implemented throughout the planning area. Evidence of implementation of these solid waste management techniques shall be documented in comprehensive plan updates. The planning area shall:

a. Develop draft ordinances no later than 6 months after the date of the goal progress calculation approval letter issued by the department. Ordinances shall be enacted and implemented no later than 12 months after the date of issuance of the goal progress calculation approval letter. Local governments are charged with the responsibility for establishing collection fees that are based on volume or on the number of containers used for disposal by residents, and for submitting documentation of ordinance enactment and implementation.

Local governments shall set the maximum container limit for a base price service at or below 100 gallons of solid waste per household per week. If an ordinance has a base price service limit that is over 100 gallons of solid waste per household per week, communities will be required to justify how the ordinance has been designed to meet the state's waste volume reduction and recycling goals.

b. Conduct an educational and promotional program to inform citizens of the manner and benefits of reducing, reusing, and recycling materials and the procurement of products made with recycled content. The program shall include the following:

(1) Targeted waste reduction and recycling education for residents, including residents of multifamily dwelling complexes having five or more units.

(2) A seminar for the commercial sector regarding the benefits of and opportunities for waste reduction and recycling. The planning area shall provide a description of the methods used to encourage participation in the commercial recycling seminar and a list or count of the businesses attending.

(3) Promotion of recycling through targeted community and media events.

(4) Recycling notification and educational packets to all new residential, commercial, and institutional collection service customers that include, at a minimum, the manner of preparation of materials for collection and the reasons for separation of materials for recycling.

c. Notify the public of the planning area's failure to meet the waste volume reduction goals of this chapter.

(1) The planning area participants shall notify the public using the following standard language:

PUBLIC NOTIFICATION

(insert NAME OF SOLID WASTE PLANNING AREA)

The Iowa General Assembly mandated that the amount of waste landfilled as of July 1, 1988, be reduced 25 percent by July 1, 1994, and 50 percent by July 1, 2000, through source reduction and recycling activities.

The (insert name of solid waste planning area) did not meet the state's 25 percent waste volume reduction and recycling goal and is now required to implement a number of waste management techniques. Because the (insert name of solid waste planning area) did not meet the 25 percent goal, landfill users will pay 50 cents per ton in addition to the state solid waste fee of $4.25 per ton of material landfilled. This additional fee will be applied until the (insert name of solid waste planning area) demonstrates it has attained the goal. In contrast, those planning areas meeting the goal may subtract 60 cents per ton from the state solid waste fee.

The (insert name of solid waste planning area) must also do the following:

1. Develop draft ordinances to be used by local governments for establishing fees that are based on volume or on the number of containers used for disposal by residents;

2. Conduct an educational and promotional program to inform citizens of the manner and benefits of reducing, reusing, and recycling materials and the procurement of products made with recycled content.

Everyone—businesses, industries, schools, governments, and citizens—must work together to reduce the amount of valuable resources being landfilled.

To find out how you can help reduce waste and participate in the activities listed above, please contact (insert name of contact person) at (insert telephone number of contact person).

The (insert name of solid waste planning area) includes (insert names of participating local governments—cities and counties).

(2) The planning area participants shall notify the public using the following procedures:

1. Publication of the notice in not less than a one-quarter page format in a daily newspaper(s) of general circulation in each county within the planning area as soon as possible, or within 60 days from the date the department notifies the planning agency that it has failed to meet the 25 percent waste volume reduction and recycling goal.

2. If counties served by the planning area are not served by a daily newspaper(s) of general circulation, notice shall instead be given by publication in a weekly newspaper(s) of general circulation in each county within the planning area.

(3) The planning agency shall submit to the department, within 30 days from the date of publication of the public notice, proof of publication from the newspaper(s) used to satisfy this requirement.

d. For sanitary disposal projects required to remit state tonnage fees, require remittance of an additional 50 cents per ton to the department as outlined in subrule 101.13(3).

ITEM 14. Adopt the following **new** rule 567—101.13(455B,455D):

567—101.13(455B,455D) Fees for disposal of solid waste at sanitary landfills.

101.13(1) Authority, purpose and applicability.

a. Authority. Pursuant to Iowa Code section 455B.310, the department has authority to collect fees for the disposal of solid waste at sanitary landfills. All tonnage fees received by the department under this rule shall be deposited in the solid waste account of the groundwater protection fund created under Iowa Code section 455E.11(1).

b. Purpose. The purpose of this rule is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This rule clarifies the applicability of the fees and sets forth a fee schedule, means of filing, and record-keeping requirements.

c. Applicability. Except as provided in subrule 101.13(2), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste disposed of in the landfill.

101.13(2) Exclusions.

a. The fees specified in subrule 101.13(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department; or to solid waste disposal facilities with special permit provisions which limit the site to the management of landscape waste and to disposal of coal combustion waste, cement kiln dust, construction and demolition waste and foundry sand; or to solid waste materials approved by the department for lining or capping or constructing berms, dikes or roads in the project.

b. Fees do not apply to wastes which will not be buried at a sanitary landfill if such material is salvaged or recycled in accordance with the provisions of the landfill permit.

101.13(3) Fee schedule.

a. The base tonnage fee is $4.25 per ton of solid waste.

b. The statewide goal progress average is 36 percent, as determined by the department on July 1, 1999.

c. If at any time the department notifies a planning agency or sanitary disposal project(s) in writing that the planning area has failed to meet the 25 percent goal, all sanitary disposal projects within that planning area that are required to remit state tonnage fees shall collect an additional 50 cents per ton, in addition to the base tonnage fee starting with the next scheduled fee payment. All sanitary disposal projects within the planning area that are required to remit state tonnage fees shall remit to the department $3.30 per ton for the tonnage fees collected, and the sanitary landfill operator(s) shall retain the remaining $1.45 per ton. Of the tonnage fee retained by the sanitary landfill operator(s), 95 cents per ton is to be used for comprehensive plan implementation and 50 cents per ton is to be used for environmental protection activities and for comprehensive planning. Environmental protection activities include the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, the preparation of a financial plan, or other environmental protection activities. Moneys due to the department under this paragraph shall be remitted until such time as evidence of attainment of the 25 percent goal by the planning area is documented and approved in writing by the department.

d. If at any time the department notifies a planning agency in writing that the planning area has met or exceeded the 25 percent goal, all sanitary disposal projects within that planning area that are required to remit state tonnage fees shall reduce by 60 cents per ton the total amount of the base tonnage fee collected, starting with the next scheduled fee payment.

(1) If the planning area meets the 25 percent goal but is under the statewide average described in paragraph 101.13(3)"b," all sanitary disposal projects within that planning area that are required to remit state tonnage fees shall remit to the department $2.20 per ton for the tonnage fees collected, and the sanitary landfill operator(s) shall retain the remaining $1.45 per ton. Of the tonnage fee retained by the sanitary landfill operator(s), 95 cents per ton is to be used for comprehensive plan implementation and 50 cents per ton is to be used for environmental protection activities and for comprehensive planning. Environmental protection activities include the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, the preparation of a financial plan, or other environmental protection activities. Moneys due to the department under this paragraph shall be remitted until such time as evidence of a change in the planning area's progress toward meeting the state's waste volume reduction and recycling goals is documented and approved in writing by the department.

(2) If the planning area meets the 25 percent goal and exceeds the statewide average described in paragraph 101.13(3)"b," all sanitary disposal projects within that planning area that are required to remit state tonnage fees shall remit to the department $2.10 per ton for the tonnage fees

collected, and the sanitary landfill operator(s) shall retain the remaining $1.55 per ton. Of the tonnage fee retained by the sanitary landfill operator(s), $1.05 per ton is to be used for comprehensive plan implementation and 50 cents per ton is to be used for environmental protection activities and for comprehensive planning. Environmental protection activities include the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, the preparation of a financial plan or other environmental protection activities. Moneys due to the department under this paragraph shall be remitted until such time as evidence of a change in the planning area's progress toward meeting the state's waste volume reduction and recycling goals is documented and approved in writing by the department.

e. If at any time the department notifies a planning agency or sanitary disposal project(s) in writing that the planning area has met or exceeded the 50 percent goal, all sanitary disposal projects within that planning area that are required to remit state tonnage fees shall reduce by $1.00 per ton the total amount of the base tonnage fee collected, starting with the next scheduled fee payment. All sanitary disposal projects within the planning area that are required to remit state tonnage fees shall remit to the department $1.95 per ton for the tonnage fees collected, and the sanitary landfill operator(s) shall retain the remaining $1.30 per ton. Of the tonnage fee retained by the sanitary landfill operator(s), 80 cents per ton is to be used for comprehensive plan implementation and 50 cents per ton is to be used for environmental protection activities and for comprehensive planning. Environmental protection activities include the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, the preparation of a financial plan, or other environmental protection activities. Moneys due to the department under this paragraph shall be remitted until such time as evidence of a change in the planning area's progress toward meeting the state's waste volume reduction and recycling goals is documented and approved in writing by the department.

Table 1 sets forth the solid waste tonnage fee schedule.

Table 1	
Planning areas with less than 25% diversion level:	
Collect	$4.75 per ton
Remit	$3.30 per ton to the department
Retain	$1.45 per ton ($0.95 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 25% diversion, under the state average, and under 50%:	
Collect	$3.65 per ton
Remit	$2.20 per ton to the department
Retain	$1.45 per ton ($0.95 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 25% diversion, over the state average, and under 50%:	
Collect	$3.65 per ton
Remit	$2.10 per ton to the department
Retain	$1.55 per ton ($1.05 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 50% diversion:	
Collect	$3.25 per ton
Remit	$1.95 per ton to the department
Retain	$1.30 per ton ($0.80 per ton for implementing planning, $0.50 per ton for environmental protection, comprehensive plan development and implementation)

f. Retained tonnage fees collected pursuant to this subrule shall be approved by the department and used for implementation of programs and services designed to satisfy the requirements of this chapter.

g. For purposes of calculating tonnage fees, sanitary landfills shall utilize scales and shall base the fee assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period.

h. If special conditions existing at a sanitary landfill make it impractical to use the landfill's scales to determine waste tonnages, the landfill may propose, for department review and approval, an alternate method for determining the weight of disposed solid waste.

101.13(4) Form, manner, time and place of filing.

a. Form. Any person to whom or entity to which this rule applies shall file a completed DNR Form 542-3276, Quarterly Solid Waste Fee Schedule and Retained Fees Report.

b. Manner, time and place. Fees are to be paid on a quarterly basis. The fees and report on retained fees will be due January 1, April 1, July 1, and October 1 for the quarters ending September 30, December 31, March 31, and June 30, respectively. The completed form shall be submitted with the appropriate fees to Accounting, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

101.13(5) Reporting and record keeping.

a. Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of this rule shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

b. Retention of records. All records used in determining the solid waste fee assessment must be kept for a period of at least three years from the end of the calendar year which the records represent.

c. Availability of records. All records required under this rule must be furnished upon request and be made available at all reasonable times for inspection to any officer, employee, or representative of the department who is duly designated by the director.

101.13(6) Failure to pay fees. If it is found that a person or entity has failed to pay the fees assessed by this rule, the director shall enforce the collection of the delinquent fees. A person or entity required to pay fees as required by Iowa Code section 455B.310 that fails or refuses to pay the fees by the due date shall be assessed a penalty of 2 percent of the quarterly fee due, to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. A person or entity required to retain fees as required by Iowa Code section 455B.310 that fails or refuses to report the use of the retained fees by the due date shall be assessed a penalty of 2 percent of the retained fees due to the department, with said penalty to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. All penalties shall be paid in addition to the fees due.

These rules are intended to implement Iowa Code sections 455B.304, 455B.306, and 455D.7.

ARC 4046B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 1, "Iowa Ethics and Campaign Disclosure Board," Iowa Administrative Code.

The proposed amendment clarifies in the Board's own code of ethics that members and staff of the Board may attend and participate in a presidential caucus as federal elections do not fall under the Board's jurisdiction.

The proposed amendment does not contain a waiver provision as no obligation is being imposed.

Any interested person may make written comments on the proposed amendment on or before April 5, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 68B.2A and 68B.32.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 1.6(5) as follows:

1.6(5) Public personal endorsement of a candidate or publicly taking a position in support of or opposition to a ballot issue is prohibited. This subrule does not prohibit a member of the board or staff from making a public personal endorsement of a federal candidate or a federal ballot issue since the board has no jurisdiction over federal candidates or federal ballot issues. *Members and staff of the board may attend and participate in a presidential caucus.*

ARC 4044B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 3, "Iowa Election Campaign Fund," Iowa Administrative Code.

The proposed amendment reflects current Board policies concerning the information to be filed on a state political party Iowa Election Campaign Fund report. This report discloses party transactions involving funds received from the Iowa Income Tax Checkoff Act under Iowa Code chapter 68A.

The proposed amendment contains a waiver provision as applicable.

Any interested person may make written comments on the proposed amendment on or before April 5, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 68A.606(1) and 68B.32A(8).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 351—3.8(68A) as follows:

351—3.8(68A) Filing of Iowa election campaign fund report. Pursuant to Iowa Code section 68A.606, each state political party shall produce evidence to the board no later than January 25 of each year that all income tax checkoff funds received from the Iowa election campaign fund were utilized exclusively for campaign expenses. A state political party filing a true and accurate report under this rule shall be deemed to be in compliance with the statute.

3.8(1) Filing of report. A state political party shall file an Iowa election campaign fund report disclosing all of the following for the period covered:

a. The period covered by the report and the name of the state political party.

b. A summary total of cash on hand at the beginning of the period, receipts received, expenditures made, and the ending balance for the period.

c. A total of receipts received from the Iowa election campaign fund.

d. The name of the source and the amount of interest or investment income received.

e. The name and mailing address of any person to whom an expenditure was made, including the date, purpose, and amount of each expenditure.

f. The date and signature of the person filing the report.

3.8(2) When filed. The report shall be filed on or before January 25 of each year. If the due date falls on a weekend or holiday, the reporting deadline shall be extended to the next business day.

3.8(3) Place of filing. The report shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. The report may be filed by fax at (515)281-3701. A report filed by mail shall be postmarked with a United States Postal Service postmark on or before the due date.

3.8(4) Failure to file. A state political party that fails to timely file the report shall be assessed a $50 civil penalty. A state political party seeking a waiver of an assessed civil penalty shall follow the procedure set out in rules 351—4.60(68B) and 351—4.61(68B).

This rule is intended to implement Iowa Code sections 68A.606(1) and 68B.32A(8).

ARC 4043B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The proposed amendment clarifies that, for purposes of the campaign laws in Iowa Code chapter 68A and Board rules on campaigning for public office, judges and judicial employees who by law are required to stand for retention are included in the definition of "candidate."

The proposed amendment does not contain a waiver provision as no obligation is being imposed.

Any interested person may make written comments on the proposed amendment on or before April 5, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68A.102(4).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 4.1(4) as follows:

4.1(4) Candidate defined. For purposes of Iowa Code ~~Supplement chapter~~ *chapters* 68A and ~~Iowa Code chapter~~ 68B~~,~~ and the rules of the board, "candidate" means an individual who takes affirmative action to seek nomination or election to a state or local public office. *For purposes of Iowa Code chapter 68A and any rules of the board on campaigning for public office, "candidate" includes any judge or judicial employee who is required by law to stand for retention.* "Takes affirmative action" includes making a public announcement of intention to seek nomination or election, making any expenditure or accepting any contribution for nomination or election, distributing petitions for signatures for nomination, filing nomination papers or an affidavit of candidacy, or being nominated by any convention process set out by law.

ARC 4045B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The proposed amendments consolidate into two rules four current rules concerning the dissolution of campaign committees. The proposed amendments also reflect current Board policies and procedures concerning the dissolution of campaign committees.

The proposed amendments contain a waiver provision when applicable.

Any interested person may make written comments on the proposed amendments on or before April 5, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code section 68A.402B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 351—4.54(68A,68B) and adopt the following **new** rule in lieu thereof:

351—4.54(68A) Committee dissolution; disposition of property; resolution of loans or debts. A committee shall not dissolve until all loans and debts are paid, forgiven, or

transferred, and the remaining funds in the committee's campaign account are distributed according to Iowa Code sections 68A.302 and 68A.303 and rule 351—4.25(68A,68B). In the case of a candidate's committee, the disposition of all campaign property with a residual value of $100 or more must be accomplished before dissolution.

4.54(1) Manner of disposition—candidates' committees. A candidate's committee shall dispose of campaign property with a residual value of $100 or more through a sale of the property at fair market value, with proceeds treated as any other campaign funds, or through donation of the property as set out in Iowa Code section 68A.303(1). The candidate's committee shall disclose on the committee's campaign report the manner of disposition.

4.54(2) Resolution of loans and debts. The loans and debts of a committee may be transferred, assumed, or forgiven except that a loan or debt owed to a financial institution, insurance company, or corporation may not be forgiven unless the committee is a ballot issue committee. The committee shall disclose on the committee's campaign report the transfer, assumption, or forgiveness of a loan or debt on the appropriate reporting schedules.

4.54(3) Settlement of disputed loans and debts. A dispute concerning a loan or debt may be resolved for less than the original amount if the committee discloses on the committee's campaign report the resolution of the dispute. If the dispute is between a candidate's committee and a financial institution, insurance company, or corporation, the candidate's committee shall submit a written statement to the board describing the loan or debt, the controversy, and the steps taken to settle or collect the loan or debt. The board will review the statement and determine whether to permit the candidate's committee to report the loan or debt as discharged.

4.54(4) Unavailable creditor. If the committee cannot locate a person to whom it owes a loan or debt, the committee shall provide the board with a written statement describing the steps the committee has taken to locate the creditor and shall request direction from the board as to what additional steps, if any, should be taken. If a candidate's committee owes a loan or debt to a financial institution, insurance company, or corporation, resolution of the matter shall include payment to a charitable organization or the general fund of the state of Iowa.

This rule is intended to implement Iowa Code section 68A.402B.

ITEM 2. Rescind rule 351—4.55(68A,68B) and adopt the following **new** rule in lieu thereof:

351—4.55(68A) Statement of dissolution; final report; final bank statement.

4.55(1) Statement of dissolution. A statement of dissolution (Form DR-3) shall be filed after the committee terminates its activity, disposes of its funds and assets, and has discharged all of its loans and debts. The statement shall be either typewritten or printed legibly in black ink and shall be signed by the person filing the statement. A statement of dissolution filed electronically using the board's Web site is deemed signed when filed.

4.55(2) Place of filing. Statements of dissolution shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Statements may also be filed by fax at (515)281-3701 or filed electronically through the board's Web site at www.iowa.gov/ethics.

4.55(3) Time of filing. A committee seeking dissolution shall file a statement of dissolution within 30 days of terminating activity, disposing of funds and assets, and discharging all loans and debts. A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the required due date. Faxed or electronically filed statements must be submitted at or before 11:59 p.m. on the required due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the next working day.

4.55(4) Final report. The committee shall file a final report disclosing the committee's closing transactions. Once the board staff reviews the report and determines that the committee has complied with all of the requirements of Iowa Code chapter 68A, the committee is no longer required to file campaign reports. If the board staff determines that the committee has not complied with all of the requirements of Iowa Code chapter 68A, the committee, prior to being deemed dissolved, shall resolve all issues.

4.55(5) Final bank statement. A copy of the committee's final bank statement showing the committee's closing transactions and a zero balance shall be attached to or submitted with the committee's final report. A committee participating in an election at the county, city, school, or other political subdivision level is not required to file a final bank statement unless requested to do so by the board. A committee seeking a waiver from the requirements of this subrule may do so in accordance with 351—Chapter 15.

This rule is intended to implement Iowa Code section 68A.402B.

ITEM 3. Rescind and reserve rules **351—4.56(68A,68B)** and **351—4.57(68A,68B)**.

ARC 4041B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

The proposed amendment clarifies the prohibition on receipt of an honorarium by an executive branch official or employee.

The proposed amendment does not contain a waiver provision as the obligations being imposed are mandated by statute.

Any interested person may make written comments on the proposed amendment on or before April 5, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 68B.23 and 68B.32A(12).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515)

281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 351—6.19(68B) as follows:

351—6.19(68B) Prohibition on receipt of an honorarium. Pursuant to Iowa Code section 68B.23, an official or employee shall not accept an honorarium from a restricted donor.

6.19(1) Definitions. For purposes of this rule, the following definitions apply:

"Honorarium" means a payment of compensation or the giving of anything of value to an official or employee in relation to a speaking engagement.

"Restricted donor" means a person as defined in Iowa Code section 68B.2(24).

6.19(2) Exceptions. An official or employee may receive and accept an honorarium provided that the honorarium consists of:

a. Payment of actual expenses for registration, food, beverages, travel, or lodging paid in return for participation on a panel or for a speaking engagement at a meeting. The expenses shall relate directly to the day or days on which the official or employee has participation or speaking responsibilities.

b. Receipt of a nonmonetary item or a series of nonmonetary items that the official or employee donates within 30 days of receipt to any of the following:

(1) A public body;

(2) A bona fide educational or charitable organization; or

(3) The department of administrative services. Items donated to the department of administrative services shall be disposed of by assignment to state agencies for official use or by public sale.

c. Payment to an official or employee for services rendered as part of a bona fide private business, trade, or profession in which the official or employee is engaged so long as both of the following conditions are met:

(1) The payment is commensurate with the actual services rendered; and

(2) The payment is being made due to a special expertise or other qualification the recipient possesses separate from the recipient's status as a public official or public employee.

6.19(3) Solicitation prohibited. An official or employee shall not solicit, demand, or otherwise request an honorarium from a restricted donor.

This rule is intended to implement Iowa Code sections 68B.23 and 68B.32A(12).

ARC 4042B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The proposed amendment permits a lobbyist to make a campaign contribution during legislative session to the lobbyist's own campaign for state office without triggering the prohibition on a lobbyist's making contributions during legislative session to candidates for state office. The Board explained the rationale for this exception in IECDB Advisory Opinion No. 2004-07.

The proposed amendment does not contain a waiver provision as no obligation is being imposed.

Any interested person may make written comments on the proposed amendment on or before April 5, 2005. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68A.504.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **8.15(2)** by adopting **new** paragraph **"d"** as follows:

d. Contributions from a lobbyist's personal funds that a lobbyist makes to the lobbyist's own campaign for public office.

ARC 4047B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," Chapter 15, "Correctional Facility Pharmacy Practice," and Chapter 16, "Nuclear Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the February 15, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments add the "Iowa Pharmacy Law and Information Manual" to the pharmacy reference library requirements.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on April 5, 2005. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

PHARMACY EXAMINERS BOARD[657](cont'd)

These amendments are intended to implement Iowa Code section 155A.31.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **657—6.3(155A)**, numbered paragraph **"1,"** as follows:

1. *The* Iowa ~~pharmacy laws, rules, and regulations~~ *Pharmacy Law and Information Manual*.

ITEM 2. Amend rule **657—7.3(155A)**, numbered paragraph **"1,"** as follows:

1. *The* Iowa ~~pharmacy laws, rules, and regulations~~ *Pharmacy Law and Information Manual*.

ITEM 3. Amend rule **657—15.4(155A)**, numbered paragraph **"1,"** as follows:

1. *The* Iowa ~~pharmacy laws, rules, and regulations~~ *Pharmacy Law and Information Manual*.

ITEM 4. Amend rule **657—16.5(155A)**, numbered paragraph **"2,"** as follows:

2. ~~State laws and regulations relating to pharmacy~~ *The Iowa Pharmacy Law and Information Manual*;

ARC 4051B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the February 15, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments provide for the off-site preview and verification by a pharmacist of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed and address minimum standards for the provision of these services.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34 and other specific requirements identified in subrule 7.7(5).

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on April 5, 2005. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code section 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** rule 657—7.7(155A) as follows:

657—7.7(155A) Verification by pharmacist when pharmacy is closed. A hospital pharmacy may contract with another pharmacy for remote pharmacist preview and verification of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed. Pharmacies entering into a contract or agreement pursuant to this rule shall comply with the following requirements:

7.7(1) Nonsupplanting service. A contract or agreement for remote pharmacist services shall not relieve the hospital pharmacy from employing or contracting with a pharmacist to provide routine pharmacy services within the facility. The activities authorized by this rule are intended to supplement hospital pharmacy services when the pharmacy is closed and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist.

7.7(2) Hospital-staff pharmacist. Nothing in this rule shall prohibit a pharmacist employed by or contracting with a hospital pharmacy for on-site services from also providing remote preview and verification of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed. A pharmacist previewing and verifying drug or device orders from a remote location shall have access to patient information pursuant to subrule 7.7(4) or 7.7(5), shall have access to the prescriber as provided in subrule 7.7(6), and shall be identified on the drug or device order as provided in subrule 7.7(7).

7.7(3) Licenses required. A pharmacy contracting with a hospital pharmacy to provide services pursuant to this rule shall maintain with the board a current Iowa pharmacy license. A remote pharmacist providing pharmacy services as an employee or agent of a contracting pharmacy pursuant to this rule shall be licensed to practice pharmacy in Iowa.

7.7(4) Electronic access to patient information. The remote pharmacist shall have secure electronic access to the hospital pharmacy's patient information system and to all other electronic systems that the on-site pharmacist has access to when the pharmacy is open. The remote pharmacist shall receive training in the use of the hospital's electronic systems.

7.7(5) Nonelectronic patient information. If a hospital's patient information is not maintained in an electronic data system or if the hospital pharmacy is not able to provide remote electronic access to the patient information system, the hospital pharmacy may petition for a waiver of subrule 7.7(4) pursuant to 657—Chapter 34 and this subrule. In addition to the information required pursuant to 657—Chapter 34, the petition for waiver shall identify the hospital pharmacy's alternative to the electronic sharing of patient information, shall explain in detail how the alternative method will ensure timely provision of patient information necessary for the remote pharmacist to effectively review the patient's drug regimen and history, and shall detail the processes involved in the alternative proposal including identification of all individuals involved in each of those processes.

7.7(6) Access to prescriber. The remote pharmacist shall be able to contact the prescriber to discuss any concerns identified during the pharmacist's review of the patient's information.

PHARMACY EXAMINERS BOARD[657](cont'd)

7.7(7) Pharmacist identified. The record of each patient-specific drug or device order processed pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the preview and verification of the order.

ITEM 2. Amend subrule 7.8(3) as follows:

7.8(3) Medication orders. There shall be no manual or electronic transcribing of medication orders by nursing or clerical staffs except for their own records. Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee. All systems shall provide for review and verification by the pharmacist of the prescriber's original order before the drug is dispensed except for emergency use, or when the pharmacy is closed, *or as provided in rule 7.7(155A).*

ARC 4048B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b.*"

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 7, "Hospital Pharmacy Practice," Chapter 8, "Universal Practice Standards," and Chapter 21, "Electronic Data in Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the February 15, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment to subrule 7.13(1) provides for electronic signature on a medication order in a hospital patient's records. Rule 8.19(124,126,155A) is amended to provide for an exception to the requirement for a prescriber's original signature on a printed prescription when the printed prescription is prepared pursuant to proposed new rule 21.7(124,155A). Definitions in rule 21.1(124,155A) are amended to clarify the intent regarding electronic prescriptions, electronic transmissions, and electronic signatures. New rule 21.7(124,155A) establishes requirements and limitations regarding electronically prepared prescriptions, including requirements for utilization of security paper when an electronically signed prescription is to be printed and delivered to the pharmacy for dispensing. Rule 21.9(124, 155A) is amended to provide for electronic signature on a prescription transmitted to the pharmacy via facsimile.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on April 5, 2005. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.308 and 155A.27.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 7.13(1) as follows:

7.13(1) Medication order information. Each original medication order contained in inpatient records shall bear the following information:

a. Patient name and identification number;
b. Drug name, strength, and dosage form;
c. Directions for use;
d. Date ordered;
e. Practitioner's signature *or electronic signature* or that of the practitioner's authorized agent.

ITEM 2. Amend 657—8.19(124,126,155A), introductory paragraph, as follows:

657—8.19(124,126,155A) Manner of issuance of a prescription drug or medication order. A prescription drug order or medication order may be transmitted from a prescriber to a pharmacy in written form, orally including telephone voice communication, or by electronic transmission in accordance with applicable federal and state laws and rules. Any prescription drug order or medication order provided to a patient in written or printed form shall include the original, handwritten signature of the prescriber *except as provided in rule 657—21.7(124,155A).*

ITEM 3. Amend rule 657—21.1(124,155A) as follows:

657—21.1(124,155A) Definitions. For the purpose of this chapter, the following definitions shall apply:

"Electronic signature" means a confidential personalized digital key, code, or number used for secure electronic data transmissions which identifies and authenticates the signatory.

"Electronic transmission" means the transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment. "Electronic transmission" includes, but is not limited to, transmission by facsimile machine, *transmission to a printer as provided in subrule 21.7(3),* and transmission by computer link, modem, or other communication device.

"Prescription drug order" or "prescription" means a lawful order of a practitioner for a drug or device for a specific patient that is communicated to a pharmacy, *regardless of whether the communication is oral, electronic, or in printed form.*

ITEM 4. Adopt **new** rule 657—21.7(124,155A) as follows:

657—21.7(124,155A) Electronically prepared prescriptions. A prescriber may initiate and authorize a prescription drug order utilizing a computer or other electronic communication or recording device. The prescription drug order shall contain all information required by Iowa Code section 155A.27 except the prescriber's original signature, and may include the prescriber's electronic signature.

21.7(1) Controlled substances. A prescription for a controlled substance prepared pursuant to this rule may be trans-

mitted to a pharmacy via facsimile transmission as provided by rule 21.9(124,155A) or rules 21.12(124,155A) through 21.16(124,155A). The transmitted prescription shall include the prescriber's original signature or electronic signature.

21.7(2) Noncontrolled prescription drugs. A prescription for a noncontrolled prescription drug prepared pursuant to this rule may be transmitted to a pharmacy via computer-to-computer transmission as provided in rule 21.8(124,155A) or via facsimile transmission as provided in rule 21.9(124,155A). The transmitted prescription shall include the prescriber's original signature or electronic signature.

21.7(3) Printed (hard-copy) prescriptions. A prescription prepared pursuant to this rule may be printed by the prescriber or prescriber's agent for delivery to a pharmacy.

a. A prescription for a controlled substance shall include the prescriber's original signature.

b. If the prescriber authenticates a prescription for a noncontrolled prescription drug utilizing an electronic signature, the printed prescription shall be printed on security paper that is designed to prevent photocopying, scanning, or other duplication of the printed prescription by prominently disclosing the word "void" on the duplication and may include other security features such as watermarks or erasure-resistant inks.

ITEM 5. Amend rule 657—21.9(124,155A) as follows:

657—21.9(124,155A) Facsimile transmission (fax) of a prescription. A pharmacist may dispense noncontrolled and controlled drugs, excluding Schedule II controlled substances, pursuant to a prescription faxed to the pharmacy by the prescribing practitioner or the practitioner's agent. The faxed prescription drug order shall serve as the original prescription, shall be maintained for a minimum of two years from the date of last fill or refill, and shall contain all information required by Iowa Code section 155A.27, including the prescriber's signature *or electronic signature*.

ARC 4049B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 22, "Unit Dose, Alternative Packaging, and Emergency Boxes," Iowa Administrative Code.

The amendments were approved at the February 15, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments eliminate the list of drugs authorized to be included in an emergency drug supply provided by a pharmacy for a home health agency or hospice and provide that the pharmacy and the agency determine which drugs are to be included in the emergency drug supply.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on April 5, 2005. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 155A.4, and 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 657—22.9(155A), introductory paragraph, as follows:

657—22.9(155A) Home health agency/hospice emergency drugs. Recognizing the emergency and unanticipated need for ~~certain legend~~ drugs to be available to qualified individuals authorized to administer drugs and employed by a home health agency or hospice, an Iowa-licensed pharmacy may provide ~~certain drugs~~ *an emergency drug supply* pursuant to this rule. Such qualified individuals may carry the emergency drug supply. An inpatient hospice facility may have an emergency drug supply provided by an Iowa-licensed pharmacy pursuant to rule 22.7(124,155A), which supply may be maintained within the facility.

ITEM 2. Amend subrule 22.9(2) as follows:

22.9(2) Ownership retained. The ~~legend~~ drugs included in this emergency supply shall remain the property of and under the responsibility of the Iowa-licensed provider pharmacy.

a. The pharmacist shall ensure that each portable container of emergency drugs is sealed in such a manner that a tamperproof seal must be broken to gain access to the drugs.

b. Each portable container of emergency drugs shall be labeled on the outside of the container with a list of the contents and the earliest expiration date.

ITEM 3. Amend subrule 22.9(4) as follows:

22.9(4) Records. All records of drugs administered from the emergency supply shall be maintained as required by law. *If a container of an injectable product is opened and partially used, any unused portion shall be immediately discarded and appropriately documented.*

ITEM 4. Rescind subrule 22.9(5) and adopt the following **new** subrule in lieu thereof:

22.9(5) Drugs included. The provider pharmacist and the director of the home health agency or hospice, or their respective designees, shall jointly determine a list of drugs necessary for prompt use in the care of patients served by the home health agency or hospice and that will be available in the emergency drug supply. Drugs shall be listed by identity and quantity and shall be periodically reviewed in accordance with policy.

ARC 4050B

PHARMACY EXAMINERS BOARD[657]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 155A.39, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 30, "Impaired Pharmacy Professional and Technician Recovery Program," Iowa Administrative Code.

The amendments were approved at the February 15, 2005, regular meeting of the Board of Pharmacy Examiners.

Proposed new subrule 30.5(5) amends the requirements for recovery contract contents to include timely notification to the professional's or technician's employer if participation in the recovery program is due to illegal use, abuse, or diversion of drugs, including controlled substances. Other proposed amendments modify program provider contract requirements regarding timely reporting to the Board of periodic program activities and expenditures.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on April 5, 2005. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code section 155A.39.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** subrule 30.5(5) as follows:

30.5(5) Employer notification. The recovery contract shall require that the professional or technician notify the professional's or technician's current employer within five days of executing the contract and shall require notification of any prospective employer no later than at the time of an employment interview, if participation in the program is due to illegal use or abuse of licit or illicit drugs or controlled substances or is due to diversion of prescription drugs or controlled substances. If the professional's or technician's current or prospective employment is in pharmacy practice, the pharmacist in charge shall also be notified as provided in this subrule for employer notification.

ITEM 2. Amend rule 657—30.6(155A), introductory paragraph, as follows:

657—30.6(155A) Program provider contract. The board may contract with one or more associations to provide a recovery program for impaired pharmacy professionals and technicians. Programs shall include, but not be limited to, education, intervention, and posttreatment monitoring. The contract shall provide for payment by the board to the program for expenses incurred in the management and operation of the program but shall not include payment for costs incurred for a participant's evaluation, referral services, treatment, or rehabilitation. Detailed claims ~~for~~ *or reports identifying* program expenses shall be submitted to the executive secretary/director or director's designee not less than annually nor more frequently than monthly.

ITEM 3. Amend subrule 30.6(1) as follows:

30.6(1) Annual reporting. An association contracting with the board pursuant to this rule shall annually prepare a written detailed accounting of program activities ~~and expenditures~~ for review by the board. This report shall detail education, intervention, and posttreatment monitoring activities provided under the program.

ITEM 4. Amend subrule 30.6(2), introductory paragraph, as follows:

30.6(2) Quarterly reporting. An association contracting with the board pursuant to this rule shall prepare the following reports ~~on a~~ *not less than* quarterly ~~basis~~ *nor more frequently than monthly*:

ARC 4037B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care Examiners hereby gives Notice of Intended Action to amend Chapter 261, "Licensure of Respiratory Care Practitioners," Chapter 262, "Continuing Education for Respiratory Care Practitioners," and Chapter 264, "Fees," Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than April 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on April 18, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments are intended to implement Iowa Code chapters 21, 147, 152B and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—261.1(152B)** as follows:

Amend the following definition:

"Licensure by endorsement" means the issuance of an Iowa license to practice respiratory care to an applicant who is ~~currently~~ *or has been* licensed in another state.

Rescind the definition of "lapsed license."

Adopt the following **new** definitions in alphabetical order:

"Active license" means a license that is current and has not expired.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Reactivate" or "reactivation" means the process as outlined in rule 261.14(17A,147,272C) by which an inactive license is restored to active status.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Rescind paragraph **261.2(1)"d,"** subparagraph **(1)**.

ITEM 3. Amend subrule **261.4(2)** by amending paragraphs **"a"** and **"b"** and adopting **new** paragraph **"c"** as follows:

a. Scores ~~shall be~~ sent directly from the examination service to the board of respiratory care examiners; ~~or~~

b. A notarized certificate shall be submitted showing proof of the successful completion of the examination for respiratory therapists or respiratory therapy technicians administered by the National Board of Respiratory Care~~.~~ *; or*

c. A notarized copy of the scores or an electronic Web-based confirmation by the department showing proof of successful completion.

ITEM 4. Amend rule **645—261.6(152B)** by rescinding and reserving numbered paragraph **"4."**

ITEM 5. Amend rule **645—261.6(152B)** by rescinding numbered paragraph **"7"** and adopting in lieu thereof the following **new** numbered paragraph **"7"**:

7. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:

- Licensee's name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 6. Rescind subrule 261.8(1) and adopt in lieu thereof the following **new** subrule:

261.8(1) The biennial license renewal period for a license to practice respiratory care shall begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 7. Rescind subrule 261.8(3) and adopt in lieu thereof the following **new** subrule:

261.8(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—262.2(152B,272C) and the mandatory reporting requirements of subrule 261.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

ITEM 8. Rescind subrule 261.8(5) and adopt in lieu thereof the following **new** subrule:

261.8(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 9. Amend subrule 261.8(7) as follows:

261.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 264.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within ~~one month following the expiration date on the wallet card~~ *the grace period*.

ITEM 10. Adopt **new** subrule 261.8(8) as follows:

261.8(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice respiratory care in Iowa until the license is reactivated. A licensee who practices respiratory care in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 11. Rescind and reserve rules **645—261.9(272C)** and **645—261.10(272C)**.

ITEM 12. Rescind rule 645—261.13(17A,147,272C) and adopt in lieu thereof the following **new** rule:

645—261.13(17A,147,272C) License denial.

261.13(1) When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

261.13(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure de-

nial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

261.13(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

ITEM 13. Adopt the following **new** rules:

645—261.14(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

261.14(1) Submit a reactivation application on a form provided by the board.

261.14(2) Pay the reactivation fee that is due as specified in 645—Chapter 264.

261.14(3) Provide verification of current competence to practice respiratory care by satisfying one of the following criteria:

a. If the applicant has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 24 hours of continuing education within two years of application for reactivation; and

(3) Verification of passing the Committee on Accreditation of Respiratory Care refresher course within one year of application for reactivation.

645—261.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 261.14(17A,147,272C) prior to practicing respiratory care in this state.

ITEM 14. Amend rule **645—262.1(152B,272C)** as follows:

Rescind the definitions of "administrator" and "lapsed license."

Amend the following definitions:

"Active license" means the license ~~of a person who is acting, practicing, functioning, and working in compliance with license requirements~~ *is current and has not expired*.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules~~, which has received advance approval by the board pursuant to these rules~~.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period ~~or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period~~.

"Hour of continuing education" means ~~a clock hour~~ *at least 50 minutes* spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means ~~the license of a person who is not in practice in the state of Iowa.~~ *a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.*

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and ~~does have~~ *includes* a post-test.

ITEM 15. Amend subrules 262.2(3) and 262.2(4) as follows:

262.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must ~~be approved by the board or otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them~~ *be in accordance with these rules*.

262.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. *A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 16. Amend rule 645—262.3(152B,272C), catchwords, as follows:

645—262.3(152B,272C) Standards ~~for approval~~.

ITEM 17. Amend subrule 262.3(1), introductory paragraph and paragraph **"c,"** as follows:

262.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit ~~if it is determined by the board that the continuing education activity~~:

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. ~~The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives.~~ The board may request the qualifications of presenters;

ITEM 18. Amend subrule **262.3(1)**, paragraph **"e,"** subparagraphs **(2)** and **(3)**, as follows:

(2) Number of program contact hours ~~(One contact hour equals one hour of continuing education credit.)~~; and

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 19. Amend subrule **262.3(2)**, paragraph **"d,"** as follows:

d. *All courses offered by the* American Association of Respiratory Care (AARC) continuing education programs/activities ~~that are clinically oriented~~.

ITEM 20. Amend subrule **262.3(2)**, paragraph **"f,"** subparagraph **(2)**, by replacing "Neonatal Advanced Life Support" with "Neonatal Resuscitation" wherever it appears.

ITEM 21. Amend subrule **262.4(1)**, paragraph **"a,"** subparagraphs **(3)** and **(4)**, as follows:

(3) Names and *brief statement of the* qualifications of instructors ~~including résumés or vitae~~ *which provides evidence that the instructor is qualified to teach the subject matter*; and

(4) ~~Evaluation~~ *Sample evaluation* form(s).

ITEM 22. Rescind and reserve subrule **262.4(1)**, paragraph **"b."**

ITEM 23. Amend subrule **262.4(1)**, paragraph **"d,"** subparagraph **(1)**, as follows:

(1) ~~The continuing education activity~~ *Course title*;

ITEM 24. Rescind subrule **262.4(1)**, paragraph **"e,"** and adopt the following **new** paragraph **"e"** in lieu thereof:

e. The board may select program sponsors for audit. The purpose of the audit is to verify that the sponsor adheres to the continuing education provider requirements.

ITEM 25. Amend subrule **262.4(1)** by adopting **new** paragraphs **"f"** and **"g"** as follows:

f. At the time of the audit, the program sponsor shall submit a summary of all continuing education programs conducted in the previous year that were attended by a licensee of the board. Information shall be provided on a form provided by the board and submitted within 30 days of the request. The evaluation summary shall not exceed two printed pages using Times Roman size 12 font. The equivalent of this page limit applies if the summary is provided electronically. The evaluation summary shall include:

(1) The course title(s) and dates offered.

(2) An aggregate summary of the evaluations for each course offering title. For courses offered more than once during the year, evaluation comments shall be an aggregate summary of all comments received for all times the title was offered.

(3) A brief summary of the qualifications of the presenter(s) for each course offering.

(4) Brief summary of course content.

g. If the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.19(17A).

ITEM 26. Rescind and reserve subrules **262.4(2)** and **262.4(3)**.

ITEM 27. Rescind subrules **262.4(4)** and **262.4(5)** and adopt the following **new** subrule 262.4(4):

262.4(4) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

a. The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

b. The licensee shall provide the following information to the board for auditing purposes:

(1) Number of contact hours for program attended; and

(2) Individual certificate of completion issued by the sponsor to the licensee or evidence of successful completion of the course from the course sponsor that includes date, location, title, sponsor number and sponsor contact hours.

c. For auditing purposes, all licensees must retain the information identified in 262.4(4)"b" for two years after the biennium has ended.

d. Information identified in 262.4(4)"b" must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

e. If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 90 days from the date of mailing to the address of record at the board office.

f. Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 28. Rescind rule 645—262.5(152B,272C) and adopt the following **new** rule in lieu thereof:

645—262.5(152B,272C) Automatic exemption. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 29. Rescind and reserve rule **645—262.6(152B,272C)**.

ITEM 30. Rescind rule 645—262.7(152B,272C) and adopt the following **new** rule in lieu thereof:

645—262.7(152B,272C) Grounds for disciplinary action. The board may take formal disciplinary action on the following grounds:

262.7(1) Failure to cooperate with a board audit.

262.7(2) Failure to meet the continuing education requirement for licensure.

262.7(3) Falsification of information on the license renewal form.

262.7(4) Falsification of continuing education information.

ITEM 31. Rescind and reserve rule **645—262.8(152B,272C)**.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 32. Rescind rule 645—262.9(152B,272C) and adopt the following **new** rule in lieu thereof:

645—262.9(152B,272C) Continuing education exemption for disability or illness. A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver to a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

262.9(1) The board may grant an extension of time to fulfill the continuing education requirement.

262.9(2) The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

262.9(3) The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

ITEM 33. Rescind rules **645—262.10(152B,272C)** and **645—262.11(152B,272C)**.

ITEM 34. Amend subrules 264.1(4) and 264.1(5) as follows:

264.1(4) ~~Reinstatement fee for a lapsed license or an inactive license is $50~~ *Reactivation fee is $100*.

264.1(5) Duplicate or reissued license certificate *or wallet card* fee is $10.

ITEM 35. Rescind and reserve subrule **264.1(6)**.

ARC 4038B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care Examiners hereby gives Notice of Intended Action to amend Chapter 263, "Discipline for Respiratory Care Practitioners," Iowa Administrative Code.

Proposed new subrule 263.2(30) provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendment no later than April 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on April 18, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 147 and 152B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** subrule 263.2(30) as follows:

263.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

ARC 4040B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2004 Iowa Acts, chapter 1175, section 427, the Board of Interpreter for the Hearing Impaired Examiners hereby gives Notice of Intended Action to adopt new Chapter 361, "Licensure of Interpreter for the Hearing Impaired Practitioners," Iowa Administrative Code.

This proposed amendment adopts a new chapter pursuant to enabling legislation.

Any interested person may make written comments on the proposed amendment no later than April 5, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on April 5, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

These rules are intended to implement Iowa Code chapters 21, 147 and 272C and 2004 Iowa Acts, chapter 1175, sections 426 to 429.

A fiscal impact summary prepared by the Legislative Ser-

vices Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 361
LICENSURE OF INTERPRETER FOR THE HEARING IMPAIRED PRACTITIONERS

645—361.1(80GA,ch1175) Definitions. For purposes of these rules, the following definitions shall apply:

"Active license" means a license that is current and has not expired.

"Board" means the board of interpreter for the hearing impaired examiners.

"Grace period" means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

"Inactive license" means a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

"Licensee" means any person licensed to practice as an interpreter for the hearing impaired in the state of Iowa.

"License expiration date" means June 30 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice as an interpreter for the hearing impaired to an applicant who is or has been licensed in another state.

"Reactivate" or "reactivation" means the process as outlined in rule 361.9(17A,147,272C) by which an inactive license is restored to active status.

"Reciprocal license" means the issuance of an Iowa license to practice as an interpreter for the hearing impaired to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of interpreter for the hearing impaired examiners to license persons who have the same or similar qualifications to those required in Iowa.

"Reinstatement" means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

645—361.2(80GA,ch1175) Requirements for licensure.

361.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Interpreter for the Hearing Impaired Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Interpreter for the Hearing Impaired Examiners. The fees are nonrefundable.

d. No application will be considered by the board until the applicant successfully passes one of the following examinations:

(1) National Association of the Deaf (NAD) examination level III or above; or

(2) One of the following examinations of the Registry of Interpreters for the Deaf National Testing System (NTS):

1. Certificate of Interpretation (CI); or
2. Certificate of Transliterating (CT); or
3. Certificate of Interpretation/Certificate of Transliterating (CI/CT); or
4. Interpreting Certificate/Transliterating Certificate (IC/TC); or
5. Comprehensive Skills Certificate (CSC); or
6. Certificate Deaf Interpreter (CDI); or

(3) The National Council on Interpreting National Interpreters Certification (NIC) Generalist Test, Certified Deaf Interpreter Test, or Oral Transliteration Test; or

(4) The Educational Interpreter Professional Assessment (EIPA) with a score of 4.0 or above obtained after December 31, 1999.

e. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly to the Board of Interpreter for the Hearing Impaired Examiners.

361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal month two years later.

361.2(3) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

361.2(4) An applicant for licensure who has not successfully completed the board-approved examination set forth in paragraph 361.2(1)"d" by July 1, 2005, but has complied with all other requirements in paragraphs 361.2(1)"a" through "c" shall be issued a temporary license to practice interpreting for a period not to extend beyond July 1, 2007.

361.2(5) An applicant who is issued a temporary license must successfully complete the board-approved examination set forth in paragraph 361.2(1)"d" on or before July 1, 2007, and must satisfy the licensure requirements specified in 645—Chapter 361 in order to maintain licensure.

361.2(6) An applicant who is issued a temporary license is subject to the same criteria as a licensed interpreter as defined in 2004 Iowa Acts, chapter 1175, Iowa Code chapter 147 and 645—Chapters 360 and 364.

645—361.3(80GA,ch1175) Licensure by endorsement. An applicant who has been a licensed interpreter for the hearing impaired under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
5. Provides:

- Examination scores which shall be sent directly from the examination service to the board; or
- A notarized certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 361.2(80GA,ch1175); and

6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification directly from the jurisdiction's board office if the verification provides:

- The licensee's name;
- The date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

645—361.4(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of interpreters for the hearing impaired.

645—361.5(80GA,ch1175) License renewal.

361.5(1) The biennial license renewal period for a license to practice as an interpreter for the hearing impaired shall begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

361.5(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements. A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

361.5(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) A person licensed to practice as an interpreter for the hearing impaired shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

361.5(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 364.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an interpreter for the hearing impaired in Iowa until the license is reactivated. A licensee who practices as an interpreter for the hearing impaired in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—361.6(147) Duplicate certificate or wallet card.

361.6(1) A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall only be issued under such circumstances.

361.6(2) A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in rule 645—364.1(147,80GA,ch1175).

361.6(3) If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

645—361.7(147) Reissued certificate or wallet card. The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 645—364.1(147,80GA,ch1175).

645—361.8(17A,147,272C) License denial.

361.8(1) When the board denies licensure to an applicant, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

361.8(2) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

361.8(3) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

645—361.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

361.9(1) Submit a reactivation application on a form provided by the board.

361.9(2) Pay the reactivation fee that is due as specified in 645—364.1(147,80GA,ch1175).

361.9(3) Provide verification of current competence to practice interpreting for the hearing impaired by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—361.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 361.9(17A,147,272C) prior to practicing interpreting for the hearing impaired in this state.

These rules are intended to implement Iowa Code chapters 17A, 147 and 272C and 2004 Iowa Acts, chapter 1175, sections 426 to 429.

ARC 4057B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 100.35, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 5, "State Fire Marshal," Iowa Administrative Code.

Iowa Code section 101A.5 requires the State Fire Marshal to adopt administrative rules "pertaining to the manufacture, transportation, storage, possession, and use of explosive materials." Currently, rules of the State Fire Marshal adopt by reference the 1992 edition of National Fire Protection Association Standard 495, "Explosive Materials Code." The 1992 edition of the Explosive Materials Code has been superseded by two later editions, the latest of which is the 2001 edition. This amendment updates the adoption by reference of the Explosive Materials Code to the latest edition published by the National Fire Protection Association.

The 2001 edition of NFPA 495 contains a chapter regulating blasting which occurs in proximity to "any dwelling, public building, school, church, or commercial or institutional building," and there is no parallel in the 1992 standard. The safety advantages of compliance with these requirements is such that the Fire Marshal determined that immediate adoption of this chapter from the 2001 standard is appropriate. Chapter 10 of the 2001 edition of National Fire Protection Association Standard 495 has been adopted through emergency rule-making procedures and is published herein as **ARC 4056B**, effective March 1, 2005.

A public hearing on this proposed amendment will be held on April 8, 2005, at 9:30 a.m. in the Third Floor Conference Room of the Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment is intended to implement Iowa Code section 101A.5.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rule 661—5.850(101A) and adopt in lieu thereof the following **new** rule:

661—5.850(101A) Explosive materials. NFPA 495, "Explosive Materials Code," 2001 edition, is hereby adopted by reference as the rules governing the manufacture, transportation, storage, and use of explosive materials in the state of Iowa.

This rule is intended to implement Iowa Code section 101A.5.

ARC 4066B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 99F.4(18), the Department of Public Safety hereby gives Notice of Intended Action to rescind Chapter 23, "Closed Circuit Videotape Surveillance Systems on Excursion Gambling Boats," and to adopt new Chapter 141, "Closed Circuit Surveillance Systems," Iowa Administrative Code.

Iowa Code section 99F.4 requires the continuous recording of all gambling activities on excursion gambling boats in compliance with rules established by the Department of Public Safety, while 491—subrule 5.4(7) extends these requirements to other gaming establishments. 2004 Iowa Acts, chapter 1136, section 33, amended the statutory requirement,

PUBLIC SAFETY DEPARTMENT[661](cont'd)

which previously required that all such activities be videotaped. The change from videotaping to recording recognizes the introduction of new recording technology in recent years, specifically digital recording technology. In accordance with the prior statutory requirement, the administrative rules implementing this requirement have required videotaping.

Amendments to implement the transition from analog to digital recording were adopted through emergency rule-making procedures, effective July 1, 2004. The emergency amendments were published in the Iowa Administrative Bulletin on July 21, 2004, as **ARC 3507B**. At that time, it was anticipated that a parallel Notice of Intended Action, with changes identical to those in the emergency rule making, would be published shortly thereafter to allow for public comment on the changes. However, the need for additional changes was identified, which delayed the preparation of this Notice. The rules proposed herein include the amendments previously Adopted and Filed Emergency, with some changes, some additional editing of the chapter containing these rules and the renumbering of the chapter from Chapter 23 to Chapter 141. Renumbering of this chapter is part of a larger effort to reorganize and renumber rules of the Department of Public Safety to make them more accessible and understandable.

These proposed rules reflect the following substantive changes from the language of Chapter 23 after the emergency adoption of amendments in July:

- Some references to excursion gambling boats were removed, in that these rules apply to all casinos in establishments licensed by the Racing and Gaming Commission. As explained in a note inserted in the new chapter, Iowa Code section 99F.4 assigns rule-making authority for video surveillance systems on excursion gambling boats to the Department, while the Racing and Gaming Commission by rule requires compliance with these rules by all other casinos.
- A reference to changing to digital recording equipment when a casino is remodeled or expanded has been deleted. All casinos will be required to have digital recording equipment in place by January 1, 2011.
- Various rules were edited to make them more compatible with the new language regarding "recording" rather than "videotaping," as that term was used prior to the emergency rule making, and to recognize technological changes in the gaming industry.
- An exception is provided to the requirement that a DCI agent approve surveillance coverage when a gaming area is moved that allows games to operate on approval of a Racing and Gaming Commission representative pending approval by a DCI agent.
- The rule in former Chapter 23 regarding waivers of these rules had not previously been amended for consistency with the statute, and so is revised to reflect the requirements of waivers and exceptions to rules pursuant to Iowa Code section 17A.9A, which was implemented after Chapter 23 was first adopted.

A public hearing on these proposed amendments will be held on April 8, 2005, at 10 a.m. in the Third Floor Conference Room, Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code section 99F.4.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind and reserve **661—Chapter 23**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 141
CLOSED CIRCUIT SURVEILLANCE SYSTEMS

661—141.1(99F) Definitions. The following definitions apply to rules in 661—Chapter 141:

"Administrator" means the administrator of the Iowa racing and gaming commission.

"Applicant" means any person applying for an occupational license or applying for a license to operate an excursion gambling boat, or the officers and members of the board of directors of a qualified sponsoring organization located in Iowa.

"Casino" means all areas of an excursion gambling boat or racetrack enclosure licensed to conduct gambling games.

"Casino surveillance" means the observation of gaming and gaming-related activities in a licensed gaming establishment. The purpose of a surveillance system is to safeguard the licensee's assets, to protect both the public and the licensee's employees, and to promote public confidence that licensed gaming is conducted honestly and free of criminal elements and activities. It is the responsibility of the licensee to ensure that the surveillance system is used to accomplish the stated purposes and is not used in an improper manner that would bring discredit to the industry.

"Commission" means the Iowa racing and gaming commission.

"DCI" means the division of criminal investigation, Iowa department of public safety.

"Dedicated coverage" means camera coverage where the sole function is to view and record a specific area whenever activity is occurring in that area.

"Gambling game" means any game of chance authorized by the commission.

"Gangplank" means the walkways that passengers use to embark and disembark from the excursion gambling boat.

"Land-based facility" means the licensee's operation where the soft count room is located, if other than on an excursion gambling boat.

"Licensee" means a qualified sponsoring organization conducting gambling games on an excursion gambling boat or in a racetrack enclosure licensed by the Iowa racing and gaming commission under Iowa Code section 99F.7.

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"Operator" means an entity licensed by the Iowa racing and gaming commission to operate an excursion gambling boat or racetrack enclosure.

"Slot change booths" means a structure on the floor of a licensed gaming establishment which houses a coin-counting device that is utilized to redeem coins or tickets from patrons.

661—141.2(99F) Minimum standards. This chapter sets forth the minimum standards that must be followed by a licensee with respect to casino surveillance systems. The director of the DCI or the administrator may, at the director's or administrator's absolute discretion, require a licensee to comply with casino surveillance system requirements that are more stringent than those set forth by these rules.

NOTE: The requirements established in this chapter apply to casinos on excursion gambling boats pursuant to Iowa Code section 99F.4 and to casinos in other gaming establishments pursuant to 491—subrule 5.4(7).

661—141.3(99F) Surveillance departments—organizational structure. Surveillance departments are to be operated in an autonomous fashion, as separate and distinct entities from all other departments. A gaming facility's organizational structure shall place the director of the surveillance department directly under the span of control and authority of the operator's board of directors or appropriate parent company executive where practical. Under no circumstances will the director of surveillance report to or take direction from any authority at a level below the general manager.

661—141.4(99F) Closed circuit surveillance system.

141.4(1) Every licensee shall install, maintain and operate a closed circuit surveillance system according to specifications set forth in these rules and shall provide to the commission and the DCI access at all times to the system or its signal.

141.4(2) Any casino issued a license on or after July 1, 2004, will be required to install a recording system that is totally digital and that meets the requirements as outlined in this chapter.

141.4(3) All licensees shall have in place digital recording systems that meet the requirements of this chapter no later than January 1, 2011.

661—141.5(99F) Required equipment. The closed circuit surveillance system shall include, but shall not be limited to, the following equipment:

141.5(1) Cameras. The system shall include Pan Tilt Zoom cameras, commonly referred to as PTZ cameras, that are light-sensitive and capable of being placed behind a dome or one-way mirror which conceals the PTZ cameras from view. Each camera shall have the capability to distinguish a clear, unobstructed view of the table number of the gaming table or slot machine.

141.5(2) Printers.

a. Video systems. The printers for video systems shall be capable of adjustment and must possess the capability to generate instantaneously upon command a clear, still copy of the image depicted on a videotape recording with a minimum of 128 shades of gray.

b. Digital systems. The printers for digital systems shall be capable of printing a clear, still copy using a minimum of four colors at 600×600 dots per inch on photo-quality paper.

141.5(3) Monitors. Each screen must be at least 12 inches measured diagonally and all controls must be front-mounted. Solid state circuitry is required.

141.5(4) Date and time generators. Each system shall be capable of synchronized recording in military time, with both the time and date of the recorded events displayed without obstructing the recorded view.

141.5(5) Universal power supply. The system and its equipment must be directly and securely wired in a way to prevent tampering with the system. In the event of a loss in power to the surveillance system, an auxiliary or backup power source must be available and capable of providing immediate restoration of power to the elements of the surveillance system that enable surveillance personnel to observe the gaming activity remaining open for play and all areas monitored by dedicated coverage.

141.5(6) Domes for cameras. The domes shall be made of sufficient quality and size to accommodate PTZ cameras and shall be capable of accommodating clear, unobstructed views.

141.5(7) Switchers. The switchers shall be capable of both manual and automatic sequential switching for the entire surveillance system.

141.5(8) Recorders. Each camera required by these standards must possess the capability of having its view displayed on a video or computer monitor and recorded. The surveillance system must include enough monitors and recording capacity to simultaneously display and record multiple gaming, cage, drop, count room activities, and record the views of all dedicated coverage. Recording systems shall be capable of copying original images while maintaining the original native format, and storing images in a format that contains a method to verify the authenticity of the original recordings and copies. The licensee shall supply the medium for download and transfer of the information and a jewel case or sleeve for the medium.

141.5(9) Digital systems.

a. All images and audio shall be digitally recorded and stored on a system with backup and retrieval capabilities.

b. Recording systems shall be locked by the manufacturer to disable the erase and reformat functions and to prevent access to the system data files.

c. The system shall provide uninterrupted recording while the playback or copy function is used.

d. If the licensee chooses to use a network for the digital recording equipment, it must be a closed network with limited access. The licensee must submit, for approval by the DCI, written policies governing the administration of the network, which shall include employee access levels.

e. The licensee shall provide the DCI and the commission representative with the necessary software and hardware to review a downloaded recording. Additionally, the licensee shall provide the DCI and the commission representative with printers meeting the requirements as outlined in 661—subrule 141.5(2).

f. The licensee shall be responsible for staffing the surveillance room with licensed staff trained in the use of digital equipment. Surveillance employees shall be capable of downloading or copying digital audio or images, or both, for evidentiary purposes.

661—141.6(99F) Required surveillance. Every licensee or operator shall conduct and record, as required by either the commission or the DCI, surveillance that allows clear, unobstructed views in the following areas of the gaming floor and related areas, land-based facilities, and racetrack enclosures:

141.6(1) Slot machines. Every licensee who exposes slot machines for play shall install, maintain, and operate a casino surveillance system that possesses the capability to monitor and record the slot machine number.

141.6(2) Table games. The surveillance system must possess the capability to monitor and record all gaming or card

table surfaces; table number, including table bank trays, with sufficient clarity to permit identification of all chips, cash, card values, and the outcome of the game; dice in craps games, with sufficient clarity to read the dice in their stopped position after each roll; and all roulette tables and wheels must be capable of being monitored and recorded on a split screen to permit views of both the table and the wheel on one monitor screen. Each table or card game shall have the capability of being monitored and recorded by no less than two cameras.

141.6(3) Progressive table games. Each progressive table game must be monitored by dedicated coverage that provides views of the table surface so that the card values and card suits can be identified and a view of the progressive meter jackpot amount.

141.6(4) Casino cage, slot change booth, and self-service coin, token, or ticket redemption center. The surveillance system must possess the capability to monitor and record a general overview of activities occurring in each casino cage, slot change booth, and self-service coin, token, or ticket redemption center with sufficient clarity to identify patrons and employees at the counter area, cash drawers, vaults, safes, countertops, coin and currency counting machines, and chip and token storage, and to identify chip, token, and currency denominations. The casino cage and slot change booth area in which fills, credits, and jackpots are transacted must be monitored by dedicated coverage that provides views with sufficient clarity to identify the chip, token, and currency values and the amounts on the fill/credit slips.

141.6(5) Count rooms. The surveillance system must possess the capability to monitor and record all areas within the hard or soft count room, including walls, doors, scales, wrapping machines, coin sorters, currency counters, vaults, safes, and general work surfaces, whenever funds or persons are present. The counting surface in the soft count room must be made of a transparent material. Any area where uncounted coin or currency is stored must be monitored by dedicated coverage. In addition, the hard count and soft count process must be monitored by dedicated coverage.

141.6(6) Movement of funds. The surveillance system must possess the capability to monitor and record the movement of cash, gaming chips, tokens, drop boxes and drop buckets. All casino entrance and exit doors, elevators, stairs, gangplanks, and loading and unloading areas shall also possess the capability to be monitored and recorded if they are utilized for the movement of uncounted moneys, tokens, or chips.

141.6(7) Admissions entrance and exits. The admissions and exit areas of the excursion gambling boat and racetrack enclosures must be monitored by dedicated coverage with sufficient clarity to identify patrons and employees at the admissions entrance and exit areas.

141.6(8) Overall views. The surveillance system must possess the capability to monitor and record the casino pit area and general casino floor with sufficient clarity to permit identification of players, employees, patrons, and spectators.

141.6(9) The DCI may require surveillance coverage of any other operation or game either on an excursion gambling boat, at a land-based facility, or at a racetrack enclosure.

141.6(10) Digital systems. All areas that require dedicated coverage and all images viewed on a surveillance operator's working monitor shall be recorded at a sufficient rate of images per second so that, when played back in real time, there is no motion loss detectable to the human eye.

661—141.7(99F) Equipment in DCI offices. Excursion gambling boat, racetrack enclosure or land-based offices assigned to the DCI shall be equipped with at least two video or computer monitors, each a minimum of 12 inches, with control capability of any source in the surveillance system. The following shall be additional mandatory equipment for said room or rooms:

1. A printer meeting the specifications of 661—subrule 141.5(2).
2. Two recorders.
3. Audio pickup of soft count room.
4. Time and date generators, if not in the master surveillance system.
5. Total override surveillance system capabilities.

661—141.8(99F) Camera lenses. All closed circuit cameras shall be equipped with lenses of sufficient quality to show clearly the value of gaming chips, tokens, and playing cards. These cameras shall be capable, at a minimum, of black and white recording and viewing, except those cameras covering exits and entrances of the casino area and gangplank areas, which shall be capable of recording in color.

661—141.9(99F) Lighting. Adequate lighting shall be present in all areas of the casino and count rooms to enable the video surveillance system to provide clear viewing and reproductions.

661—141.10(99F) Surveillance room. There shall be provided for each gaming facility a room specifically utilized to monitor and record activities on the casino floor, count room, cashier cages, gangplank areas, admission entrances and exits, and slot change booths. This room shall have a trained surveillance person present at all times during casino operation hours. In addition, an excursion gambling boat or racetrack enclosure may have satellite monitoring equipment. The following are requirements for the operation of equipment in the surveillance room and of satellite monitoring equipment:

141.10(1) Surveillance equipment location. All equipment that may be utilized to monitor or record views obtained by a casino surveillance system must remain located in the room used exclusively for casino surveillance security purposes. The satellite monitoring equipment must be capable of being disabled from the casino surveillance room when not in use. The entrance to the casino surveillance room must be locked or secured at all times.

141.10(2) Override capability. Casino surveillance equipment must have total override capability over any other satellite monitoring equipment in other casino offices, with the exception of the DCI rooms.

141.10(3) Access. DCI and commission employees shall at all times be provided immediate access to the casino surveillance room and satellite monitoring equipment. Also, all DCI and commission employees shall have access to all records and areas of such rooms.

141.10(4) Surveillance logs. Entries in the log shall be required when specific surveillance is requested by the DCI or the commission, or whenever any activity that appears unusual, irregular, illegal or in violation of commission rules is observed. Also, all communications received or sent from the surveillance room in regard to surveillance activities or casino operations shall be logged.

141.10(5) Blueprints. A copy of the configuration of the casino floor shall be posted and updated immediately upon any approved change. The location of any change and the location of surveillance cameras, gaming tables and slot machines by assigned numbers shall also be included. Copies of the blueprints shall be made available immediately to the DCI and commission.

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141.10(6) Storage and retrieval. Surveillance personnel shall label and file all recordings. The date and time of the recording shall be recorded. Recordings of admission entrances, exits, and casino cashier cages where check-cashing activities occur shall be retained for 21 days unless a longer period is required by the DCI, the commission, or court order. All other recordings shall be retained for at least 7 days after recording unless a longer period is required by the DCI, the commission, or court order. Original audio, video, and digital recordings shall be released to the DCI or commission upon demand.

141.10(7) Malfunctions. Each malfunction of surveillance equipment must be repaired within 24 hours of the malfunction. If, after 24 hours, activity in the affected area cannot be monitored, the game or machine shall be closed until such coverage can be provided. A record of all malfunctions shall be kept and reported to the DCI each day. In the event of a dedicated coverage malfunction, the licensee must immediately provide alternative camera coverage or other security measures that will protect the subject activity. If other security measures are taken, the licensee must immediately notify the DCI. The DCI, in its discretion, will determine whether the other security measures are adequate.

141.10(8) Security. Entry to the surveillance room and access to satellite monitoring equipment shall be limited to persons approved by the DCI or the commission. A log of personnel entering and exiting the surveillance room and accessing satellite monitoring equipment shall be maintained and submitted to the DCI or the commission upon request.

141.10(9) Playback station. Within the DCI room, there shall be an area that includes, but is not limited to, a monitor and a recorder with the capability of producing first-generation copies.

141.10(10) Additional requirements.

a. Audio and video or digital monitoring and recording shall be continuous in the detention areas when someone is being detained. These recordings must be retained for 30 days after the recorded event, unless directed otherwise by the administrator, DCI or court order.

b. The commission, its employees, and DCI agents shall, at all times, be provided immediate access to the surveillance room and all areas of the casino.

141.10(11) Written plans and alterations.

a. Every operator or applicant for licensing shall submit to the commission for approval by the administrator and to the DCI for approval a written casino surveillance system plan no later than 60 days prior to the start of gaming operations.

b. A written casino surveillance system plan must include a casino floor plan that shows the placement of the surveillance room and all casino surveillance equipment in relation to the locations required to be covered and a detailed description of the casino surveillance system and its equipment. In addition, the plan may include other information that evidences compliance with these rules by the licensee, operator or applicant.

c. The operator may change the location of the surveillance room, table games, slot machines, and other gaming devices. The surveillance system must also be adjusted, if necessary, to provide the coverage required by these rules. A DCI agent must approve the change in the surveillance system before the relocated surveillance room, table games, slot machines, or other gaming devices may be placed into operation.

EXCEPTION: A commission representative may allow a gambling game to be placed in operation pending approval by a DCI agent.

661—141.11(99F) Nongambling hours. Security surveillance will be required during nongambling hours as follows:

141.11(1) Cleanup and removal time. At any time that cleanup operations or money removal is being conducted in the casino area, the security surveillance room must be staffed with a minimum of one trained surveillance person.

141.11(2) Locked-down mode. Anytime the casino is closed and in a locked-down mode, sufficient surveillance coverage must be conducted to monitor and record the casino in general so that security integrity is maintained. During this period, the presence of a trained security surveillance person shall not be required.

661—141.12(99F) Waivers from requirements. Upon written request of an applicant, licensee, or operator, the director of the DCI may, for just cause, waive any requirement of this chapter, provided that the director finds that all of the following conditions exist:

1. The requirement requested to be waived is not imposed by statute or another provision of law, and the establishment of the requirement is entirely within the authority of the department of public safety.
2. Enforcing the requirement would impose an undue hardship on the applicant, licensee, or operator requesting the waiver.
3. Granting the waiver would not prejudice the substantial legal rights of any person.
4. Substantially equal protection of public health, safety, and welfare to that which would result from the enforcement of the requirement will be afforded through another means.

Each request for a waiver shall be reported to the agency rules administrator of the department of public safety, with an indication of the disposition of the request and a brief explanation of the reasons for granting or denying the waiver.

These rules are intended to implement Iowa Code section 99F.4.

PUBLIC SAFETY DEPARTMENT[661]

Regulatory Analysis

The Department of Public Safety hereby gives public notice of the completion and publication of a regulatory analysis, and of a public hearing concerning rules proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3482B**.

ARC 3482B contained proposed administrative rules which would establish minimum training standards for fire fighters in Iowa. The proposed rules were reviewed by the Administrative Rules Review Committee at its meeting of August 10, 2004. The Committee voted to require the Department of Public Safety to complete a regulatory analysis of the proposed rules in compliance with Iowa Code section 17A.4A, subsection 2, paragraph "a." In the Notice of Intended Action, the deadline established for accepting comments on the proposed rules was established as August 4, 2004, or the times of public hearings held on August 5, 2004, and August 9, 2004. Subsequently, as a result of the requirement to complete a regulatory analysis, an Amended Notice of Intended Action, published in the Iowa Administrative Bulletin on September 29, 2004, as **ARC 3710B** extended

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the period for public comment on the proposed rules indefinitely. A further Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on January 5, 2005, as **ARC 3906B**. The second Amended Notice of Intended Action announced additional public hearings, which were held on January 25, 2005, and February 3, 2005.

A public hearing on the regulatory analysis and to accept further public comment on the proposed rules will be held at 10 a.m. on April 7, 2005, at the Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50010. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing. Any written comments or information regarding the regulatory analysis or the proposed rules may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on April 6, 2005, or submitted at a public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on April 6, 2005.

Notice is hereby given that the period for accepting public comment on the rules proposed in the Notice of Intended Action published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3482B**, will terminate at the conclusion of the public hearing scheduled for April 7, 2005.

The full text of the regulatory analysis may be obtained on the Web site of the Department of Public Safety (www.state.ia.us/government/dps) or by contacting the Agency Rules Administrator of the Department of Public Safety by telephone at (515)281-5524 or electronic mail at admrule@dps.state.ia.us.

CONCISE SUMMARY OF REGULATORY ANALYSIS

The regulatory analysis contains each of the elements specified for a regulatory analysis, or explanations regarding the impracticality of obtaining the specified information, listed in Iowa Code section 17A.4A, subsection 2, paragraph "a," subparagraphs (1) through (6). The maximum total cost of compliance with the basic training standard for structural fire fighters proposed in the rules is estimated to be $1,440,000. This is likely to be a high estimate, given the conservative assumptions used in its derivation.

If the two-year window for achieving the minimum training standard which was included in the rules as proposed in the Notice of Intended Action were to be adopted, approximately $300,000 of the projected cost would be borne by individual fire fighters or their departments, with approximately $1.1 million being paid by the State of Iowa through the Fire Fighter Training and Equipment Fund.

ADDITIONAL CONSIDERATIONS

The Fire Marshal is considering two changes to the proposed rules which would have a significant effect on the fiscal impact on fire fighters subject to the standards. Both of these changes have been endorsed by the State Fire Service and Emergency Response Council.

The first of the two major changes being considered would extend the period for compliance with the basic training standard for structural fire fighters to three years from the effective date of the rules; therefore, the date of compliance is projected to be July 1, 2008. The second major change being considered would allow the Fire Marshal to grant extensions to the deadline on a year-to-year basis to any department with volunteer fire fighters upon application by the chief of that department if the department had sought and been denied funding for the required training from the Fire Fighter Training and Equipment Fund administered by the Fire Marshal.

ARC 4063B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 3, "Examination," Chapter 4, "Associate Real Property Appraiser," Chapter 5, "Certified Residential Real Property Appraiser," and Chapter 6, "Certified General Real Property Appraiser"; rescind Chapter 9, "Renewal, Expiration and Reinstatement of Certificates or Registrations," and adopt a new Chapter 9, "Renewal, Expiration and Reinstatement of Certificates and Registrations, and Inactive Status"; amend Chapter 11, "Continuing Education," and Chapter 12, "Fees"; and adopt new Chapter 13, "Certified Residential Appraiser Education Requirements," Chapter 14, "Certified General Appraiser Education Requirements," and Chapter 15, "Supervisor Responsibilities," Iowa Administrative Code.

Amendments include requiring an individual to retake the appropriate licensing examination if the individual is not licensed within two years of successful completion of the examination; allowing associate appraisers to voluntarily submit work product early in their career for educational purposes; establishing a new work product review fee and three new chapters covering the Appraiser Qualification Board's new education requirements that will become effective January 1, 2008, and a new chapter covering standards for supervising appraisers.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before April 5, 2005. Comments should be addressed to Susan Griffel, Professional Licensing and Regulation Division, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515) 281-7411.

E-mail may be sent to Susan.Griffel@iowa.gov.

These amendments are intended to implement Iowa Code chapters 543D and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** subrule 3.2(5) as follows:

3.2(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months of passing the examination, that examination result loses its

validity to support issuing an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from a lower-level credential to either the certified residential or certified general classification.

ITEM 2. Amend subrule 3.5(1) as follows:

3.5(1) ~~On and after September 1, 2003, as~~ *As* a condition of original or upgrade certification, all applicants shall submit to the board three appraisals dated within six months prior to submission. The fee for processing review of the appraisals is provided in 193F—Chapter 12.

ITEM 3. Adopt **new** subrules 3.5(10) and 3.5(11) as follows:

3.5(10) After accumulating a minimum of 500 hours of appraisal experience, a trainee may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. A fee of $50 per review will be charged.

3.5(11) Work product submitted in the work product review process shall be retained by the board for a period of 60 days following the issuance of the certificate requested by the applicant. The applicant may retrieve the work product through personal appearance at the board office or may make arrangements for the return of the work product to the applicant at the applicant's expense. If such arrangements are not made within 60 days of the date the certificate is issued, the board may dispose of the work product. This rule shall only apply if the applicant is issued the certificate requested in the application. If the application is deferred or denied, the board shall retain the work product for a period of at least five years from the date the application was deferred or denied. If an applicant withdraws an application from the board's consideration, the board shall retain the work product for a period of 60 days following withdrawal to provide the applicant the opportunity to personally retrieve the work product at the board office or otherwise arrange for the return of the work product to the applicant at the applicant's expense. The board reserves the right to retain copies of all work product submitted by any applicant.

ITEM 4. Amend **193F—Chapter 4** by inserting the following **new** note before the first rule in the chapter:

NOTE: The AQB adopted changes to the qualification criteria effective January 1, 2008. The changes include increased education requirements that can be found in 193F—Chapter 13 for certified residential appraisers and in 193F—Chapter 14 for certified general appraisers.

ITEM 5. Adopt **new** subrules 4.1(5) to 4.1(9) as follows:

4.1(5) The associate appraiser shall be subject to direct supervision by a supervising appraiser who shall be certified and in good standing. The scope of practice for the associate appraiser classification is the appraisal of those properties that the supervising appraiser is permitted to appraise. To obtain a certified residential real property appraiser certificate, the associate appraiser shall accumulate a total of 2500 hours of appraisal experience in not less than 24 months. To obtain a certified general real property appraiser certificate, the associate appraiser shall accumulate a total of 3000 hours of appraisal experience, of which at least 1500 hours must be nonresidential, in not less than 30 months.

4.1(6) An appraisal log shall be maintained by the associate appraiser and shall, at a minimum, include the following for each appraisal:

a. Type of property;
b. Date of report;
c. Address of appraised property;
d. Description of work performed;
e. Number of work hours;
f. Signature of supervising appraiser.

4.1(7) The associate appraiser shall have the appraisal log reviewed and signed by the supervising appraiser at least monthly. Separate appraisal logs shall be maintained for each supervising appraiser.

4.1(8) The associate appraiser may have more than one supervising appraiser.

4.1(9) Associate appraisers shall comply with the continuing education requirements of 193F—Chapter 11 of the board's administrative rules.

ITEM 6. Rescind rules **193F—4.2(543D)** and **193F—4.3(543D)** and adopt the following **new** rule in lieu thereof:

193F—4.2(543D) Upgrading an associate appraiser registration. An associate appraiser must complete 2500 hours of experience in not less than 24 months to upgrade to a certified residential real property appraiser. An associate appraiser must complete 3000 hours of experience, of which at least 1500 hours must be nonresidential experience under a certified general appraiser, in not less than 30 months to upgrade to a certified general real property appraiser. Application requirements include the following:

1. Successful completion of the work product review process as described in 193F—3.5(543D);
2. Submission of a completed application on a form provided by the board;
3. Submission of a copy of the appraisal log(s);
4. Submission of a copy of the associate appraiser license and certificate;
5. Payment of the appropriate fee.

ITEM 7. Amend **193F—Chapter 5** by inserting the following **new** note before the first rule in the chapter:

NOTE: The AQB adopted changes to the qualification criteria effective January 1, 2008. The changes include increased education requirements that can be found in 193F—Chapter 13 for certified residential appraisers and in 193F—Chapter 14 for certified general appraisers.

ITEM 8. Amend subrule 5.2(1) as follows:

5.2(1) An appraisal log shall be provided. ~~from which one or more appraisals may be selected for review by a reviewer approved by the board.~~ The appraisal log shall, at a minimum, include the following for each appraisal:

a. Type of property;
b. Date of report;
c. Address of appraised property;
d. Description of work performed;
e. Number of work hours;
f. Signature of supervising appraiser.

ITEM 9. Amend rule 193F—5.3(543D) as follows:

193F—5.3(543D) Upgrade from a certified residential to a certified general appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, see the education, experience, ~~and~~ examination *and work product review* requirements in ~~193F IAC 6~~ *193F—Chapter 6 and in rule 193F—3.5(543D).*

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 10. Amend **193F—Chapter 6** by inserting the following **new** note before the first rule in the chapter:

NOTE: The AQB adopted changes to the qualification criteria effective January 1, 2008. The changes include increased education requirements that can be found in 193F—Chapter 13 for certified residential appraisers and in 193F—Chapter 14 for certified general appraisers.

ITEM 11. Rescind 193F—Chapter 9 and adopt the following **new** chapter:

CHAPTER 9
RENEWAL, EXPIRATION AND REINSTATEMENT OF CERTIFICATES AND REGISTRATIONS, AND INACTIVE STATUS

193F—9.1(272C,543D) Biennial renewal.

9.1(1) Certificates and associate registrations must be renewed on a biennial basis or they shall lapse.

9.1(2) Persons whose last names begin with A to K shall renew in even-numbered years. Persons whose last names begin with L to Z shall renew in odd-numbered years. Certificates and registrations shall expire biennially on June 30.

9.1(3) An application to renew a certificate or registration shall be submitted on a form obtained from the board office or on the board's Web site. Applicants may renew electronically through a board-established electronic process, as available.

193F—9.2(272C,543D) Notices.

9.2(1) It is the policy of the board to mail renewal notices to certified and associate appraisers to the last address on file with the board in the May preceding certificate or registration expiration. Neither the failure of the board to mail such a notice nor the licensee's failure to receive such a notice shall excuse the requirement to timely renew and pay the renewal fee.

9.2(2) Certified and associate appraisers must ensure that the address on file with the board office is current and that the board is notified within 30 days of any address change.

193F—9.3(272C,543D) Renewal procedures.

9.3(1) Date of filing. Certified and associate appraisers shall file a timely and sufficient renewal application with the board by the June 30 deadline in the biennial renewal year. An application shall be deemed filed on the date received by the board, the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

9.3(2) Continuing education. An applicant for renewal shall report the applicant's compliance with the continuing education requirements provided in 193F—Chapter 11. Full compliance with applicable continuing education requirements is a condition of renewal in active status. Applications to renew certificates or registrations in active status that do not, on their face, demonstrate full compliance with all applicable continuing education requirements shall be rejected as insufficient, as provided in subrule 9.3(4).

9.3(3) Background disclosures. An applicant for renewal shall disclose such background and character information as the board requests, which may include disciplinary action taken by any jurisdiction regarding a professional license of any type, the denial of an application for a professional license of any type by any jurisdiction, and the conviction of any crime.

9.3(4) Insufficient applications shall be rejected. The board shall reject applications that are insufficient. A sufficient application within the meaning of Iowa Code section 17A.18(2) must:

a. Be signed by the applicant if submitted in person or mailed, or be certified as accurate if submitted electronically;

b. Be fully completed;

c. Reflect, on its face, full compliance with all applicable continuing education requirements; and

d. Be accompanied by the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or written on a closed account.

9.3(5) Resubmission of rejected applications. The board shall promptly notify an applicant of the basis for rejecting an insufficient renewal application, and shall return or refund any fees received. Applicants for certificate or registration renewal may remedy the insufficiency and resubmit applications that were rejected as insufficient. Resubmitted applications shall be deemed received when personally delivered to the board office, on the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Resubmitted applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

9.3(6) Administrative processing not determinative. The administrative processing of an application to renew a certificate or registration shall not prevent the board from subsequently commencing a contested case to challenge the applicant's qualifications for continued licensure or to assert disciplinary charges if grounds exist to do so. The board may take such an action, for example, if an application to renew reflects full compliance with continuing education, but the licensee is unable to document compliance in a subsequent audit.

9.3(7) Denial of timely and sufficient application to renew. If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant stating the grounds for denial. The procedures described in rule 193—7.40(546,272C) shall apply.

193F—9.4(272C,543D) Failure to renew.

9.4(1) The certificate or registration of a certified or associate appraiser shall lapse unless the appraiser:

a. Submits a timely and sufficient renewal application by the expiration date, or

b. Submits a sufficient renewal application within 30 calendar days of the expiration date, accompanied by an additional penalty of 25 percent of the biennial renewal fee.

9.4(2) If a certified or associate appraiser fails to renew within the 30-day grace period provided for in subrule 9.4(1), the certificate or registration shall lapse and the appraiser shall be required to reinstate in accordance with subrule 9.4(3).

9.4(3) The board may reinstate a lapsed certificate or registration upon the applicant's submission of the appropriate form, payment of a reinstatement fee of $150, and submission of evidence of completion of all required continuing education.

9.4(4) Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed. Any violation of this subrule shall be grounds for discipline.

193F—9.5(272C,543D) Inactive status.

9.5(1) General purpose. This rule establishes a procedure under which a person issued a certificate or associate registration may apply to the board to register in inactive status. Registration under this rule is available to a certificate holder or associate registrant residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate or associate registration is required. A person eligible to register as inactive may, as an alternative to such registration, allow a certificate or associate registration to lapse. The board will continue to maintain a data base on persons registered as inactive, including information which may not routinely be maintained after a certificate or associate registration has lapsed through failure to renew. A person who registers as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board. Because a person registered in inactive status may not practice in Iowa or hold oneself out to the public as authorized to practice as a certified appraiser or registered associate appraiser, such person is not required to complete continuing education.

9.5(2) Eligibility. A person holding a lapsed or active certificate as a real property appraiser, or a lapsed or active registration as a registered associate, which has not been revoked or suspended may apply on forms provided by the board to register as inactive if the person is not engaged in the state of Iowa in any practice for which a certificate or associate registration is required. Such a person may be actively engaged in the practice of real estate appraising in another jurisdiction. Such a person may also engage in such appraisal practices as may be performed in Iowa by persons who do not hold a certificate as a real property appraiser or associate registration as long as the person does not hold oneself out to the public as a certified or associate real estate appraiser.

9.5(3) Affirmation. The application form shall contain a statement in which the applicant affirms that the applicant will not engage in any practice prohibited by subrule 9.5(2) in Iowa without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to subrule 9.5(6).

9.5(4) Renewal. A person registered as inactive may renew the person's certificate or associate registration on the biennial schedule described in 193F—9.1(272C,543D). Such person is exempt from the continuing education requirements for renewal and will be charged a reduced rate, as provided in 193F—Chapter 12. An inactive certificate or associate registration shall lapse if not timely renewed. An active certificate holder or associate registrant may renew as inactive if such person has not completed all continuing education requirements and may thereafter apply for active status when the deficiency has been remedied.

9.5(5) Grounds for discipline. Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is in inactive status. Any violation of this subrule shall be grounds for discipline.

9.5(6) Reinstatement. A person registered as inactive shall apply for reinstatement to active status prior to engaging in any practice in Iowa which requires certification or associate registration. An application for reinstatement to active status shall be on a form provided by the board, shall demonstrate full compliance with all applicable continuing education requirements, and shall be accompanied by a $100 reinstatement fee and the biennial fee for active status. Such an applicant shall be given credit for renewal fees previously paid if the person applies for reinstatement at other than the person's regular renewal date. A person changing from active to inactive status during a biennial renewal period shall not, however, be entitled to a refund of any of the fees previously paid to attain active status.

193F—9.6(272C,543D) Property of the board. Every certificate or associate registration issued by the board shall, while it remains in the possession of the holder, be preserved by the holder but shall, nevertheless, always remain the property of the board. In the event that a certificate or associate registration is revoked or suspended, or is not renewed, or is registered in inactive status, it shall, on demand, be delivered by the holder to the board. The board shall generally not request return of a certificate or associate registration if it has not been revoked, suspended or voluntarily surrendered in a disciplinary action, but may do so if the board reasonably determines that grounds exist to believe that a person holding a lapsed or inactive certificate or associate registration has engaged in a practice for which active certification or registration is required.

These rules are intended to implement Iowa Code section 543D.5.

ITEM 12. Amend subrule **11.2(1)**, paragraph **"c,"** as follows:

c. Appraisers must successfully complete the seven-hour National USPAP Update Course, or its equivalent, each two-year renewal cycle~~, beginning with appraisers who renew June 30, 2004~~. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP continuing education credit shall be awarded only when the class is instructed by an AQB-certified instructor(s) and when the class is instructed by at least one state-certified residential or state-certified general appraiser. ~~USPAP classroom hours earned prior to January 1, 2003, will not count toward fulfilling the seven-hour USPAP recertification requirement. Appraisers renewing in June 2004 and thereafter are subject to the new requirement.~~ *Individuals who are credentialed in more than one jurisdiction shall not have to take more than one seven-hour National USPAP Update Course within a two-calendar-year period for the purposes of meeting AQB criteria.*

ITEM 13. Rescind subrule **11.2(9)** and renumber subrule **11.2(10)** as **11.2(9)**.

ITEM 14. Rescind rule 193F—11.6(272C,543D) and adopt the following **new** rule in lieu thereof:

193F—11.6(272C,543D) Acceptable distance education courses. Distance education is an education process based on the geographical separation of student and instructor. A distance education course is acceptable to meet class hour requirements if:

11.6(1) The course provides interaction. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor; and

11.6(2) Content approval is obtained from the AQB, a state licensing jurisdiction, or an accredited college, community college, or university that offers distance education programs and is approved or accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. Nonacademic credit college courses provided by a college shall be approved by the AQB or the state licensing jurisdiction; and

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

11.6(3) Course delivery mechanism approval is obtained from one of the following sources:

a. AQB-approved organizations providing approval of course design and delivery; or

b. A college that qualifies for content approval in subrule 11.6(2) that awards academic credit for the distance education course; or

c. A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.

ITEM 15. Amend subrule 11.7(2) as follows:

11.7(2) A nonrefundable fee of $50 must be submitted for each program *except for programs that have been approved by the Appraiser Qualifications Board*.

ITEM 16. Amend rule 193F—12.1(543D) as follows:

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	$100
Examination fee (and reexamination fee)	$95
Biennial registration fee~~:~~ *for active status:*	
Certified general real property appraiser	$260
Certified residential real property appraiser	$260
Associate real property appraiser	$150
Biennial registration fee for inactive status	*$50*
Reciprocal application fee (one-time only)	$50
Reciprocal registration fee (biennial)	$260
~~Reinstatement fee~~	~~$100~~
Fee to reinstate a lapsed license	*$150*
Fee to reinstate an inactive license to active status	*$100*
Reissuance or replacement of a lost, destroyed, or stolen certificate or registration	$50
Work product review fee	~~$100~~ *300*

ITEM 17. Adopt **new** 193F—Chapter 13 as follows:

CHAPTER 13
CERTIFIED RESIDENTIAL APPRAISER
EDUCATION REQUIREMENTS

193F—13.1(543D) Existing credential holders. Existing credential holders in good standing shall be considered in compliance with current Appraiser Qualification Board criteria if they have passed an AQB-approved qualifying examination for that credential. This applies to reciprocity, temporary practice, renewals, and applications for the same credential in another jurisdiction. All credential holders must comply with ongoing requirements for continuing education and state renewal procedures.

193F—13.2(543D) Education requirements for certified residential licensing. Following are the educational requirements that an individual must meet to apply for a certified residential license, effective January 1, 2008. The changes include increased required education, which is summarized as follows:

Category	Requirements Prior to 1/1/08	Requirements Effective 1/1/08	1/1/08 College-Level Course Requirements
Certified Residential	120 hours	200 hours	21 semester credit hours covering the following subject matter courses: English composition; principles of economics (micro or macro); finance; algebra, geometry or higher mathematics; statistics; introduction to computers—word processing/ spreadsheets; and business or real estate law. In lieu of the required courses, an associate degree will qualify.

13.2(1) Any credential issued by the board on or after January 1, 2008, must be in compliance with all components of the AQB real property appraiser qualification criteria. It would not matter when an applicant completed education, examination and experience; if the credential is issued after January 1, 2008, the applicant must meet the requirements for all components of the new qualification criteria.

13.2(2) Applicants for the certified residential license must hold an associate degree, or higher, from an accredited college, community college or university, unless the requirements of 13.2(3) are satisfied.

13.2(3) In lieu of the associate degree, an applicant for the certified residential license shall successfully pass the following collegiate subject matter courses from an accredited college, community college, or university:

a. English composition;

b. Principles of economics (micro or macro);

c. Finance;

d. Algebra, geometry, or higher mathematics;

e. Statistics;

f. Introduction to computers—word processing/spreadsheet; and

g. Business or real estate law.

Total credits are the total hours of equivalent college courses in lieu of an associate degree or 21 semester credit hours for the certified residential appraiser. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the examination showing its approval, it will be considered as credit for the college course.

13.2(4) In addition to the 21 semester hours, an applicant must complete 200 creditable class hours before taking the AQB-approved examination as follows:

CERTIFIED RESIDENTIAL APPRAISER
REQUIRED CORE CURRICULUM

All core courses must be AQB-approved to obtain credit.

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour USPAP course or equivalent	15 hours
Residential market analysis and highest and best use	15 hours
Residential appraiser site valuation and cost approach	15 hours
Residential sales comparison and income approaches	30 hours
Residential report writing and case studies	15 hours
Statistics, modeling and finance	15 hours
Advanced residential applications and case studies	15 hours
Appraisal subject matter electives	20 hours

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

13.2(5) The AQB-approved Certified Residential Real Property Appraiser Examination must be successfully completed. There is no alternative to successful completion.

13.2(6) All prelicense courses must be AQB-approved for a student to obtain credit toward the prelicense requirement. All distance education courses must include a written examination proctored by an official approved by the college or university, or by the sponsoring organization.

13.2(7) All certified residential appraisers must comply with the COMPETENCY RULE of USPAP.

These rules are intended to implement Iowa Code section 543D.5.

ITEM 18. Adopt **new** 193F—Chapter 14 as follows:

CHAPTER 14
CERTIFIED GENERAL APPRAISER
EDUCATION REQUIREMENTS

193F—14.1(543D) Existing credential holders. Existing credential holders in good standing shall be considered in compliance with current Appraiser Qualification Board criteria if they have passed an AQB-approved qualifying examination for that credential. This applies to reciprocity, temporary practice, renewals, and applications for the same credential in another jurisdiction. All credential holders must comply with ongoing requirements for continuing education and state renewal procedures.

193F—14.2(543D) Education requirements for certified general licensing. Following are the educational requirements that an individual must meet to apply for a certified general license, effective January 1, 2008. The changes in clude increased education requirements, which are summarized as follows:

Category	Requirements Prior to 1/1/08	Requirements Effective 1/1/08	1/1/08 College-Level Course Requirements
Certified General	180 hours	300 hours	30 semester credit hours covering the following subject matter courses: English composition; micro economics; macro economics; finance; algebra, geometry or higher mathematics; statistics; introduction to computers—word processing/ spreadsheets; business or real estate law; and two elective courses in accounting, geography, ag-economics, business management, or real estate. In lieu of the required courses, a bachelor's degree will qualify.

14.2(1) Any credential issued by the board on or after January 1, 2008, must be in compliance with all components of the AQB real property appraiser qualification criteria. It would not matter when an applicant completed education, examination and experience; if the credential is issued after January 1, 2008, the applicant must meet the requirements for all components of the new criteria.

14.2(2) Applicants for the certified general license must hold a bachelor's degree, or higher, from an accredited college, community college or university, unless the requirements of 14.2(3) are satisfied.

14.2(3) In lieu of the bachelor's degree, an applicant for the certified general license shall successfully pass the following collegiate subject matter courses from an accredited college, community college, or university:

a. English composition;
b. Micro economics;
c. Macro economics;
d. Finance;
e. Algebra, geometry, or higher mathematics;
f. Statistics;
g. Introduction to computers—word processing/spreadsheets;
h. Business or real estate law; and
i. Two elective courses in accounting, geography, ag-economics, business management, or real estate.

Total hours of equivalent college courses in lieu of a bachelor's degree: 30 semester credit hours or its equivalent for the certified general appraiser. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the examination showing its approval, the examination will be considered as credit for the college course.

14.2(4) In addition to the 30 semester hours, an applicant must complete 300 creditable class hours before taking the AQB-approved examination as follows:

CERTIFIED GENERAL APPRAISER
REQUIRED CORE CURRICULUM

All core courses must be AQB-approved to obtain credit.

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour USPAP course or equivalent	15 hours
General appraiser market analysis and highest and best use	30 hours
Statistics, modeling and finance	15 hours
General appraiser sales comparison approach	30 hours
General appraiser site valuation and cost approach	30 hours
General appraiser income approach	60 hours
General appraiser report writing and case studies	30 hours
Appraisal subject matter electives	30 hours

14.2(5) All prelicense courses must be AQB-approved for a student to obtain credit toward the prelicense requirement. All distance education courses must include a written examination proctored by an official approved by the college or university, or by the sponsoring organization.

14.2(6) The AQB-approved Certified General Real Property Appraiser Examination must be successfully completed. There is no alternative to successful completion.

14.2(7) All certified general appraisers must comply with the COMPETENCY RULE of USPAP.

These rules are intended to implement Iowa Code section 543D.5.

ITEM 19. Adopt **new** 193F—Chapter 15 as follows:

CHAPTER 15
SUPERVISOR RESPONSIBILITIES

193F—15.1(543D) Description. The importance of the role of the supervisory appraiser places ethical and professional standards on those who serve in this capacity. The function of the supervisory appraiser is to help adequately prepare a train-

ee to demonstrate professional competence and work independently upon issuance of full licensure. The supervisor is considered an integral part of the training process and supervision should be considered a full-time, hands-on responsibility. To this end, the board has promulgated the following best practices to clarify the board's intent for supervisory appraisers.

193F—15.2(543D) Supervisory appraiser responsibilities. Supervisory appraisers shall:

1. Ensure that the information presented in the appraisal report is accurate and dependable in order to provide a valid and credible report.
2. Adequately supervise a trainee in the data gathering process to ensure that the trainee is correctly and properly collecting pertinent and factual data for analysis.
3. Ensure that the trainee is knowledgeable about the various sources from which to gather data and that the data collected is reliable. The trainee should be exposed to any sources of research that would be considered by one's peers in the marketplace including cost manuals, multiple listing services, public records and Internet study.
4. Teach the trainee to reason independently and formulate reasonable conclusions based upon the analysis of the information gathered.
5. Teach the basic routine of the appraisal process including a consistent and regular pattern of data gathering, analysis and report writing.
6. Review and critique appraisal reports for accuracy, ease of reading, understanding and purpose, and ensure that all addenda are both relevant and pertinent.
7. Ensure that factual data is reliable and that analysis is both supported and documented. All necessary certification and limiting conditions should be up to date and applicable to the assignment.
8. Expose a trainee to as many different property types, report formats and value ranges as possible with the understanding that each time a new or unique assignment is introduced, there is a responsibility to instruct and educate the trainee to ensure competency.
9. Inspect each appraised property with the trainee until the supervisor determines the trainee is competent, in accordance with the COMPETENCY RULE of USPAP for the property type.
10. Bring the trainee appraiser to a professional level that enables the trainee to demonstrate competency independently.

193F—15.3(543D) Requirements for a supervisory appraiser. Effective January 1, 2006, a supervisory appraiser shall:

1. Have a minimum of two years of experience as a certified appraiser and be in good standing in all states and have had no disciplinary action that affects the supervisor's legal eligibility to engage in appraisal practice.
2. Have a maximum of three trainees and shall register with the board the name, office address and starting date of each trainee, as well as any termination dates (voluntary or involuntary).
3. Be responsible for the training and direct supervision of the associate appraiser by accepting full responsibility for the appraisal report by signing and certifying that the report is in compliance with USPAP.
4. Keep copies of associate appraiser reports for a period of at least five years or at least two years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.

193F—15.4(543D) Restrictions. The board may prohibit or further restrict an appraiser's authorization to act as a supervisory appraiser while the appraiser is under an unsatisfactory disciplinary order.

These rules are intended to implement Iowa Code section 543D.5.

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REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to adopt new Chapter 21, "Enforcement Proceedings Against Unlicensed Persons," Iowa Administrative Code.

The proposed new rules were recommended by the Assistant Attorney General assigned to real estate and are intended to clarify and establish procedures for the investigation, hearing, and enforcement of violations of Iowa Code section 543B.1.

Any interested person may make written comments on the proposed rules no later than April 5, 2005, addressed to Roger Hansen, Executive Officer, Iowa Real Estate Commission, 1920 S.E. Hulsizer, Ankeny, Iowa 50021-3941, or faxed to (515)281-7411. E-mail may be sent to Roger.Hansen@Iowa.gov.

A public hearing will be held on April 5, 2005, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer, Ankeny, Iowa, at which time persons may present their views on the proposed rules either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules.

These rules are intended to implement Iowa Code chapters 17A and 543B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 21
ENFORCEMENT PROCEEDINGS AGAINST UNLICENSED PERSONS

193E—21.1(17A,543B) Civil penalties against unlicensed persons.

21.1(1) Commission authority. The commission is authorized to issue a cease and desist order and to impose a civil penalty of up to the greater of $10,000 or 10 percent of the real estate sale price against any person who is not licensed by the commission but who acts in the capacity of a real estate broker or salesperson, pursuant to Iowa Code section 543B.34.

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21.1(2) Unlicensed person. An "unlicensed person" includes any individual or business entity that has never been licensed by the commission, has voluntarily surrendered a license issued by the commission, or has allowed a license issued by the commission to lapse and the time in which the license could have been reinstated pursuant to rule 193E—3.6(272C,543B) or 193E—4.6(272C,543B) has passed.

193E—21.2(17A,543B) Unlawful practices. Practices by unlicensed persons which are subject to civil penalties include, but are not limited to:

1. Acts or practices by unlicensed persons which require licensure pursuant to Iowa Code sections 543B.1, 543B.3, and 543B.6, which do not fall into the exceptions listed in Iowa Code section 543B.7.
2. Representing oneself to the public as a real estate broker, broker associate, or salesperson, without first obtaining a license and otherwise complying with the requirements of Iowa Code chapter 543B, as provided in Iowa Code section 543B.1.
3. Violating one or more of the provisions of Iowa Code section 543B.34 as they relate to acts or practices by unlicensed persons.
4. Use or attempted use of a licensee's license or an expired, suspended, revoked, or nonexistent license.
5. Falsely impersonating a licensed real estate professional.
6. Providing false or forged evidence of any kind to the commission in obtaining or attempting to obtain a license.
7. Knowingly aiding or abetting an unlicensed person in any activity identified in this rule.

193E—21.3(17A,543B) Investigations. The commission is authorized by Iowa Code sections 17A.13(1) and 543B.34 to conduct such investigations as are needed to determine whether grounds exist to issue a cease and desist order and to impose civil penalties against an unlicensed person. Such investigations shall conform to the procedures outlined in 193—Chapter 6 and 193E—Chapter 18. Complaint and investigatory files concerning unlicensed persons are not confidential except as may be provided in Iowa Code chapter 22.

193E—21.4(17A,543B) Subpoenas. Pursuant to Iowa Code sections 17A.13(1) and 543B.34, the commission is authorized in connection with an investigation of an unlicensed person to issue subpoenas to compel persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the commission deems necessary as evidence in connection with the civil penalty proceeding or relevant to the decision of whether to initiate a civil penalty proceeding. Commission procedures concerning investigatory subpoenas are set forth in 193—Chapter 6.

193E—21.5(17A,543B) Notice of intent to impose civil penalty. Prior to issuing a cease and desist order and imposing a civil penalty against an unlicensed person, the commission shall provide the unlicensed person written notice and the opportunity to request a contested case hearing. Notice of the commission's intent to issue a cease and desist order and to impose a civil penalty shall be served by restricted certified mail, return receipt requested, or personal service in accordance with Iowa R. Civ. P. 1.305. Alternatively, the unlicensed person may accept service personally or through authorized counsel. The notice shall include the following:

1. A statement of the legal authority and jurisdiction under which the proposed cease and desist order would be issued and the civil penalty would be imposed.
2. Reference to the particular sections of the statutes and rules involved.
3. A short, plain statement of the alleged unlawful practices.
4. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 543B.
5. Notice of the unlicensed person's right to a hearing and the time frame in which hearing must be requested.
6. The address to which written request for hearing must be made.

193E—21.6(17A,543B) Requests for hearings.

21.6(1) Unlicensed persons must request a hearing within 30 days of the date the notice is received if served through restricted certified mail, or within 30 days of the date of service if service is accepted or made in accordance with Iowa R. Civ. P. 1.305. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal service.

21.6(2) If a request for hearing is not timely made, the commission chair or the chair's designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543B, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose civil penalty.

21.6(3) If a request for hearing is timely made, the commission shall issue a notice of hearing and conduct a contested case hearing in the same manner as applicable to disciplinary cases against licensees. Rules governing such hearings may be found in 193—Chapter 7 and 193E—Chapter 18.

21.6(4) An unlicensed person who fails to timely request a contested case hearing shall have failed to exhaust "adequate administrative remedies" as that term is used in Iowa Code section 17A.19(1).

21.6(5) An unlicensed person who is aggrieved or adversely affected by the commission's final decision following a contested case hearing may seek judicial review as provided in Iowa Code section 17A.19.

21.6(6) An unlicensed person may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543B at any stage of the proceeding upon mutual consent of the commission.

21.6(7) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in 193—subrule 7.30(2). Hearings shall be open to the public.

193E—21.7(17A,543B) Alternative procedure. The commission may, as an alternative to the notice and request for hearing procedures described in 193E—21.5(17A,543B) and 193E—21.6(17A,543B), issue a statement of charges and notice of hearing in a format similar to that used for licensee discipline.

193E—21.8(17A,543B) Factors to consider. The commission may consider the following when determining the amount of civil penalty to impose, if any:

1. Whether the amount imposed will be a substantial economic deterrent to the violation.
2. The circumstances leading to the violation.
3. The severity of the violation and the risk of harm to the public.
4. The economic benefits gained by the violator as a result of noncompliance.

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5. The interest of the public.
6. The time lapsed since the unlawful practice occurred.
7. Evidence of reform or remedial actions.
8. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
9. Whether the violation involved an element of deception.
10. Whether the unlawful practice violated a prior order of the commission, court order, cease and desist agreement, consent order, or similar document.
11. The clarity of the issue involved.
12. Whether the violation was willful and intentional.
13. Whether the unlicensed person acted in bad faith.
14. The extent to which the unlicensed person cooperated with the commission.

193E—21.9(17A,543B) Enforcement options. In addition, or as an alternative, to the administrative process described in these rules, the commission may seek an injunction in district court, enter into a consent agreement with the unlicensed person, or issue an informal cautionary letter.

These rules are intended to implement Iowa Code chapters 17A and 543B.

ARC 4053B

TRANSPORTATION DEPARTMENT[761]

Notice of Termination and Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.4, 307.10, 307.12, and 327F.38, the Department of Transportation hereby terminates **ARC 3888B**, a Notice of Intended Action published in the Iowa Administrative Bulletin on December 22, 2004, proposing new rule 761—810.4(327F) regarding first aid and medical treatment for railroad employees. Because the Department has added a new subrule on first-aid kits to proposed rule 761—810.4(327F), the Department is renoticing the rule.

Pursuant to the authority of Iowa Code sections 307.10, 307.12, and 327F.38, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 810, "Railroad Safety Standards," Iowa Administrative Code.

Iowa Code section 327F.38 (2004 Iowa Acts, chapter 1175, section 334) requires the Department to adopt rules requiring railroads in the state to provide reasonable and adequate access to first aid or medical treatment for employees injured in the course of employment. New rule 761—810.4(327F) implements this rule-making requirement.

This rule does not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning the proposed rule or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.
5. Be received by the Director's Staff Division no later than April 5, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, April 7, 2005, at 10 a.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed rule may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Director's Staff Division at the address listed in this Notice by April 18, 2005.

This rule is intended to implement Iowa Code section 327F.38.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making action:

Adopt **new** rule 761—810.4(327F) as follows:

761—810.4(327F) First aid and medical treatment for railroad employees.

810.4(1) Railroad employees who are injured in the course of employment shall have reasonable and adequate access to first aid or medical treatment. A railroad or railroad employee shall not:

a. Deny, delay or interfere with first aid or medical treatment for any railroad employee who is injured in the course of employment.

b. Discipline or threaten to discipline any railroad employee for requesting first aid or medical treatment when the employee is injured in the course of employment.

810.4(2) All railroads operating in the state must make reasonable efforts to have emergency first-aid kits available at locations where railroad employees perform their employment duties.

810.4(3) Nothing in this rule shall be construed to require a railroad or railroad employee to perform first aid or medical care.

This rule is intended to implement Iowa Code section 327F.38.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 6.25%.

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants . . . . . Maximum 6.0%
74A.4 Special Assessments . . . . . Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective March 9, 2005, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days . . . . . Minimum 1.00%
32-89 days . . . . . Minimum 1.40%
90-179 days . . . . . Minimum 1.60%
180-364 days . . . . . Minimum 1.85%
One year to 397 days . . . . . Minimum 2.25%
More than 397 days . . . . . Minimum 3.55%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 4065B

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100, the Utilities Board (Board) gives notice that on February 18, 2005, the Board issued an order in Docket No. RMU-05-3, In re: Revisions to Affiliate Reporting Requirements [199 IAC 31], "Order Commencing Rule Making."

The proposed amendment revises 199 IAC 31, which contains utility affiliate filing requirements, by adding two new filing requirements. Under the amendment, an incumbent local exchange carrier (ILEC) that provides telecommunications service in the same service territory as a competitive local exchange carrier (CLEC) with which it is affiliated must file with the Board any commercial agreements made with its affiliated CLEC and must include in its annual filing information about certain transactions with both affiliated and nonaffiliated CLECs.

The "Order Commencing Rule Making" contains a more thorough discussion of the reasons for this proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before April 5, 2005, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Renumber rules **199—31.4(476)** to **199—31.8(476)** as **199—31.5(476)** to **199—31.9(476)** and adopt **new** rule 199—31.4(476) as follows:

199—31.4(476) Additional filing requirements for affiliated telecommunications service providers. In addition to information provided to or filed with the board pursuant to this chapter, any incumbent local exchange carrier (ILEC) that provides service in the same service territory as a competitive local exchange carrier (CLEC) with which it is affiliated shall file with the board the information specified in this rule. "Service territory" refers to the area defined by the applicable telephone exchange area boundary maps on file with the board.

31.4(1) Commercial agreements filed. An ILEC shall file with the board all commercial agreements between the ILEC and its affiliated CLEC as they are made. For purposes of this subrule, "commercial agreements" includes, but is not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.

31.4(2) Supplement to annual filing. An ILEC shall include the following information as part of its annual filing pursuant to rule 199—31.3(476):

a. The number of local numbers ported by the ILEC to nonaffiliated CLECs.

b. The number of local numbers ported by the ILEC to its affiliated CLEC.

c. The number of unbundled network element loops (UNE-Ls) provided by the ILEC to nonaffiliated CLECs.

d. The number of UNE-Ls provided by the ILEC to its affiliated CLEC.

UTILITIES DIVISION[199](cont'd)

e. The number of unbundled network element platforms (UNE-Ps), or their equivalent, provided by the ILEC to nonaffiliated CLECs.

f. The number of UNE-Ps, or their equivalent, provided by the ILEC to its affiliated CLEC.

g. The number of resale access lines provided by the ILEC to nonaffiliated CLECs.

h. The number of resale access lines provided by the ILEC to its affiliated CLEC.

i. The number of central office collocation sites provided by the ILEC to nonaffiliated CLECs.

j. The number of central office collocation sites provided by the ILEC to its affiliated CLEC.

ARC 4064B

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"*b*."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) gives notice that on February 21, 2005, the Board issued an order in Docket No. RMU-05-4, In re: Quality of Service Reporting by Eligible Telecommunications Carriers [199 IAC 39], "Order Commencing Rule Making," to receive public comment on the proposed amendments requiring designated eligible telecommunications carriers (ETCs) to provide quality of service reporting to the Board regarding those services that are supported by the federal Universal Service Fund.

Under the Board's current rules, the Board's jurisdiction in the area of service quality for ETCs extends only to those eligible carriers that provide traditional wireline service. Wireless carriers with ETC designation are currently exempt from the Board's existing service quality rules outlined in 199 IAC 22.6(476).

In lieu of attempting to draft detailed service quality rules that attempt to be technologically neutral in an industry that is always changing, the Board proposes in this rule making to adopt amendments that require carriers with ETC designation, regardless of whether they are wireline or wireless carriers, to periodically report various indicators of the quality of their Universal Service Fund-based services. This reporting requirement is consistent with the FCC's directive to satisfy public interest concerns, especially in rural areas. The Board proposes to disseminate the reports it receives from the ETCs on the Board's Web site so that consumers will have more accurate information about the providers of the services supported by the Universal Service Fund. By making the reported information available to the public, the Board will be able to assist consumers in making value-based telecommunications choices. The proposed amendments will promote competitive choice among carriers, assist consumers in making comparisons between various telecommunications service providers, and allow the public to know of changes and improvements to the marketplace. In addition, the adoption of the proposed amendments will help ensure uniform treatment of all ETCs.

The order commencing rule making contains a more thorough discussion of the reasons for the proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before April 5, 2005, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 9 a.m. on Wednesday, May 11, 2005, in the Board's hearing room at the address listed above. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code section 476.2 and 47 U.S.C. § 214(e).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **39.3(1)"b"** to read as follows:

b. Eligible carriers that do not file tariffs with the board shall include the Link-up and Lifeline offerings in their agreements to provide service to customers. *These eligible carriers shall file with the board copies of their current customer service agreements. Eligible wireless carriers should include with these filings coverage and build-out plans on an annual basis.*

ITEM 2. Adopt **new** rule 199—39.5(476) to read as follows:

199—39.5(476) Quality of service reporting by eligible telecommunications carriers. Carriers designated by the utilities board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e) must measure and report quarterly to the board in a format determined by the board the quality of service performance for the criteria listed below:

1. Service connections. The average time to establish service, for all orders, after acceptance of the end-use customer's application for service during the reporting period.

2. Service connection delays. The percentage of service connections requiring more than five days to establish service after acceptance of the end-use customer's application for services during the reporting period.

3. Local usage. The number of minutes of service provided each month, without any additional charge, as part of the ETC-eligible service.

4. Access to emergency services. Whether the ETC currently provides automatic numbering information (ANI) and automatic location information (ALI) as part of its E911 services.

5. Service outages. The percentage of customers affected by network outages during the reporting period.

6. Duration of service outages. The average amount of time that affected customers are without service during the reporting time.

UTILITIES DIVISION[199](cont'd)

7. Extended service outages. The number of customers affected by network outages lasting more than 24 hours during the reporting period.

8. Answer time. The average amount of time that end-user customers are left "on hold" when calling a customer service center. "On hold" times shall be measured from the time a caller indicates a preference to be connected to a customer service agent.

9. Business offices. The number and location of business offices in Iowa that can handle walk-in customers.

ARC 4056B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 100.35, the Department of Public Safety hereby amends Chapter 5, "State Fire Marshal," Iowa Administrative Code.

Iowa Code section 101A.5 requires the State Fire Marshal to adopt administrative rules "pertaining to the manufacture, transportation, storage, possession, and use of explosive materials." Currently, rules of the State Fire Marshal adopt by reference the 1992 edition of National Fire Protection Association (NFPA) Standard 495, "Explosive Materials Code." The Fire Marshal has been considering the adoption of the current edition of this standard, and a Notice of Intended Action proposing adoption of the newer standard is published herein.

The 2001 edition of NFPA 495 contains a chapter regulating blasting which occurs in proximity to "any dwelling, public building, school, church, or commercial or institutional building," and there is no parallel in the 1992 standard. The safety advantages of compliance with these requirements is such that the Fire Marshal has determined that immediate adoption of this chapter from the 2001 standard is appropriate. Consideration of adoption of the newer standard in total will take place through the normal rule-making process, starting with a Notice of Intended Action published herein as **ARC 4057B**. A public hearing on the amendment proposed in the Notice will be held on April 8, 2005.

Iowa Code section 100.35 requires that the Fire Marshal adopt rules only after a public hearing. A public hearing regarding this emergency rule making was held on February 25, 2005, in Des Moines, Iowa. Notice of the hearing and the prospective rule making was provided to members of the explosives industry licensed in Iowa and to local governments. (Note that this hearing was not the same as an "opportunity for oral presentation" described in Iowa Code chapter 17A.)

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable. While a public hearing was held prior to adoption of this amendment, the procedures followed were not equivalent to those specified for public notice and participation by Iowa Code chapter 17A. The requirements adopted herein affect the safety of the inhabitants and occupants of dwellings and other buildings proximate to blast sites. The work affected by the rule is seasonal, and regulation is needed prior to the advent of warm weather.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment should be made effective March 1, 2005, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by establishing safety requirements of blasting operations in proximity to dwellings and other buildings.

This amendment became effective on March 1, 2005.

This amendment is intended to implement Iowa Code section 101A.5.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend rule 661—5.850(101A) as follows:

661—5.850(101A) Rules generally. ~~The code, "~~ NFPA 495 ~~Manufacture, Transportation, Storage, and Use of Explosive Materials,"~~ *"Explosive Materials Code,"* 1992 edition, ~~as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269,~~ with the exception of Chapter 2 and references to other specific standards contained in Chapter 2, is hereby adopted by reference as the rules governing the manufacture, transportation, storage, and use of explosive materials in the state of Iowa.

NFPA 495, "Explosive Materials Code," 2001 edition, Chapter 10, is hereby adopted by reference as the rules governing safety requirements for blasting operations in proximity to any dwelling, public building, school, church, or commercial or institutional building.

This rule is intended to implement Iowa Code section 101A.5.

[Filed Emergency 2/25/05, effective 3/1/05]
[Published 3/16/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/05.

ARC 4058B

REVENUE DEPARTMENT[701]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, "Determination of Net Income," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

These amendments are adopted as a result of 2005 Iowa Acts, House File 102.

Item 1 amends rule 40.60(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets acquired after May 5, 2003, but before January 1, 2005, may be elected for individual income tax. The rule also provides that if a taxpayer elects to take the 50 percent bonus depreciation that was not claimed on an Iowa return filed prior to February 24, 2005, the taxpayer may either claim the additional depreciation on an amended return for the appropriate tax year or may claim the additional depreciation on the next return filed subsequent to February 23, 2005.

Item 2 amends rule 40.65(422) to provide that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, may be elected for individual income tax. The rule also provides that if a taxpayer elects to take the increased expensing allowance that was not claimed on an Iowa return filed prior to February 24, 2005, the taxpayer may either claim the additional expensing allowance on an amended return for the appropriate tax year or may claim the additional expensing allowance on the next return filed subsequent to February 23, 2005.

Item 3 amends rule 53.22(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal

REVENUE DEPARTMENT[701](cont'd)

Revenue Code for assets acquired after May 5, 2003, but before January 1, 2005, may be elected for corporation income tax. The rule also provides that if a taxpayer elects to take the 50 percent bonus depreciation that was not claimed on an Iowa return filed prior to February 24, 2005, the taxpayer may either claim the additional depreciation on an amended return for the appropriate tax year or may claim the additional depreciation on the next return filed subsequent to February 23, 2005.

Item 4 amends rule 53.23(422) to provide that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, may be elected for corporation income tax. The rule also provides that if a taxpayer elects to take the increased expensing allowance that was not claimed on an Iowa return filed prior to February 24, 2005, the taxpayer may either claim the additional expensing allowance on an amended return for the appropriate tax year or may claim the additional expensing allowance on the next return filed subsequent to February 23, 2005.

Item 5 amends rule 59.23(422) to provide that the additional first-year depreciation allowance (special 50 percent bonus depreciation) set forth in Section 168(k) of the Internal Revenue Code for assets acquired after May 5, 2003, but before January 1, 2005, may be elected for franchise tax. The rule also provides that if a taxpayer elects to take the 50 percent bonus depreciation that was not claimed on an Iowa return filed prior to February 24, 2005, the taxpayer may either claim the additional depreciation on an amended return for the appropriate tax year or may claim the additional depreciation on the next return filed subsequent to February 23, 2005.

Item 6 amends rule 59.24(422) to provide that the increase in the expensing allowance authorized in Section 179(b) of the Internal Revenue Code for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, may be elected for franchise tax. The rule also provides that if a taxpayer elects to take the increased expensing allowance that was not claimed on an Iowa return filed prior to February 24, 2005, the taxpayer may either claim the additional expensing allowance on an amended return for the appropriate tax year or may claim the additional expensing allowance on the next return filed subsequent to February 23, 2005.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impractical because of the need to implement the new provisions of this law that impact the filing of 2004 Iowa income tax returns that are due by April 30, 2005.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on February 25, 2005. These rules need to be corrected immediately to reflect the new provisions of this new law that impact 2004 tax returns.

These amendments are intended to implement Iowa Code sections 422.7 and 422.35 as amended by 2005 Iowa Acts, House File 102.

These amendments became effective February 25, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 701—40.60(422) as follows:

701—40.60(422) Additional first-year depreciation allowance.

40.60(1) *Assets acquired after September 10, 2001, but before May 6, 2003.* For tax periods ending after September 10, 2001, but beginning before May 6, 2003, the additional first-year depreciation allowance ("bonus depreciation") of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets ~~placed in service~~ *acquired* after September 10, 2001, but before May 6, 2003, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets ~~placed in service~~ *acquired* after September 10, 2001, but before May 6, 2003, can be calculated on Form IA 4562A.

See ~~rule 701—53.22(422)~~ *701—subrule 53.22(1)* for examples illustrating how this ~~rule~~ *subrule* is applied.

40.60(2) *Assets acquired after May 5, 2003, but before January 1, 2005.* For tax periods beginning after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, ~~is applicable~~ *may be taken* for Iowa individual income tax. ~~The~~ *If the taxpayer elects to take the 50 percent bonus depreciation, the* depreciation deduction allowed on the Iowa individual income tax return is the same as the depreciation deduction allowed on the federal income tax return for assets ~~placed in service~~ *acquired* after May 5, 2003, but before January 1, 2005.

a. If the taxpayer elects to take the 50 percent bonus depreciation and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of 50 percent bonus depreciation, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the 50 percent bonus depreciation provision, or taxpayer may reflect the change for 50 percent bonus depreciation on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

EXAMPLE 1: Taxpayer filed a 2003 Iowa individual income tax return on April 15, 2004, which reflected an adjustment of $50,000 for the difference between federal depreciation and Iowa depreciation relating to the disallowance of 50 percent bonus depreciation. Taxpayer now elects to take the 50 percent bonus depreciation for Iowa tax purposes. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer's 2004 Iowa return that is filed after February 23, 2005.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE 2: Assume the same facts as given in Example 1, and taxpayer filed a 2004 Iowa return prior to February 24, 2005. Taxpayer did not take an additional $50,000 deduction on the 2004 Iowa return. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer's 2005 Iowa return.

b. If the taxpayer elects not to take the 50 percent bonus depreciation, taxpayer must add the total amount of depreciation claimed on assets acquired after May 5, 2003, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k). If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets. The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after May 5, 2003, but before January 1, 2005, can be calculated on Form IA 4562A.

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2004~~ *2005* Iowa Acts~~, First Extraordinary Session~~, House File ~~2581, section 38~~ *102*.

ITEM 2. Amend rule 701—40.65(422) as follows:

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, ~~is applicable~~ *may be taken* for Iowa individual income tax. ~~The~~ *If the taxpayer elects to take the increased Section 179 expensing, the* Section 179 expensing allowance on the Iowa individual income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006.

40.65(1) *If the taxpayer elects to take the increased Section 179 expensing and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of increased Section 179 expensing, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the increased Section 179 expensing, or taxpayer may reflect the change for increased Section 179 expensing on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.*

EXAMPLE 1: Taxpayer filed a 2003 Iowa individual income tax return on April 15, 2004, which reflected an adjustment of $50,000 for the difference between the federal Section 179 expensing allowance and the Iowa Section 179 expensing allowance. Taxpayer now elects to take the increased Section 179 expensing allowance for Iowa tax purposes. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer's 2004 Iowa return that is filed after February 23, 2005.

EXAMPLE 2: Assume the same facts as given in Example 1, and taxpayer filed a 2004 Iowa return prior to February 24, 2005. Taxpayer did not take an additional $50,000 deduction on the 2004 Iowa return. Taxpayer may either amend the 2003 Iowa return to reflect a $50,000 reduction in Iowa taxable income, or taxpayer may take the additional deduction of $50,000 on taxpayer's 2005 Iowa return.

40.65(2) *If the taxpayer elects not to take the increased Section 179 expensing, the expensing allowance is limited to $25,000 for Iowa tax purposes. The difference between the federal Section 179 expensing allowance on such property, if in excess of $25,000, and the Iowa expensing allowance of $25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code without regard to the bonus depreciation provision in Section 168(k).*

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expensing allowance and related depreciation, along with the gain or loss on the sale of qualifying assets for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, can be calculated on Form IA 4562A.

See 701—subrule 53.23(2) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section ~~422.3~~ *422.7* as amended by ~~2004~~ *2005* Iowa Acts, ~~First Extraordinary Session,~~ House File ~~2581, section 37~~ *102*.

ITEM 3. Amend rule 701—53.22(422) as follows:

701—53.22(422) Additional first-year depreciation allowance.

53.22(1) *Assets acquired after September 10, 2001, but before May 6, 2003.* For tax periods ending after September 10, 2001, but beginning before May 6, 2003, the additional first-year depreciation allowance ("bonus depreciation") of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets ~~placed in service~~ *acquired* after September 10, 2001, but before May 6, 2003, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets ~~placed in service~~ *acquired* after September 10, 2001, but before May 6, 2003, can be calculated on Form IA 4562A.

The following nonexclusive examples illustrate how this ~~rule~~ *subrule* applies:

EXAMPLE 1: Taxpayer ~~purchased~~ *acquired* a $100,000 qualifying asset on January 1, 2002, which has a five-year

life for depreciation purposes. Using the bonus depreciation provision in Section 168(k) of the Internal Revenue Code, taxpayer was entitled to a $44,000 depreciation deduction on the federal return for 2002. For Iowa purposes, taxpayer must use the MACRS depreciation method which results in a $20,000 depreciation deduction on the Iowa return for 2002. Therefore, a $24,000 ($44,000 − $20,000) increase to net income relating to this depreciation adjustment must be made on the Iowa return for 2002.

EXAMPLE 2: Taxpayer ~~purchased~~ *acquired* a $1,000,000 qualifying asset on January 1, 2002, which has a ten-year life for depreciation purposes. This asset was sold on December 31, 2005, for $500,000. Using the bonus depreciation provision, taxpayer claimed $677,440 of depreciation deductions on the federal returns for 2002-2005. This results in a basis for this asset of $322,560 ($1,000,000 − $677,440), and a gain of $177,440 ($500,000 − $322,560) on the federal return for 2005 on the sale of the asset.

Using the MACRS depreciation method, taxpayer claimed $539,200 of depreciation deductions on the Iowa returns for 2002-2005. This results in a basis for this asset of $460,800 ($1,000,000 − $539,200), and a gain of $39,200 ($500,000 − $460,800) on the Iowa return for 2005 on the sale of the asset. Therefore, a decrease to net income of $138,240 ($177,440 − $39,200) relating to this gain adjustment must be made on the Iowa return for 2005.

53.22(2) *Assets acquired after May 5, 2003, but before January 1, 2005.* For tax periods beginning after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, ~~is applicable~~ *may be taken* for Iowa corporation income tax. ~~The~~ *If the taxpayer elects to take the 50 percent bonus depreciation, the* depreciation deduction allowed on the Iowa corporation income tax return is the same as the depreciation deduction allowed on the federal income tax return for assets ~~placed in service~~ *acquired* after May 5, 2003, but before January 1, 2005.

a. If the taxpayer elects to take the 50 percent bonus depreciation and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of 50 percent bonus depreciation, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the 50 percent bonus depreciation provision, or taxpayer may reflect the change for 50 percent bonus depreciation on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

See 701—subrule 40.60(2), paragraph "a," for examples illustrating how this subrule is applied.

b. If the taxpayer elects not to take the 50 percent bonus depreciation, taxpayer must add the total amount of depreciation claimed on assets acquired after May 5, 2003, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k). If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets. The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after May 5, 2003, but before January 1, 2005, can be calculated on Form IA 4562A.

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2004~~ *2005* Iowa Acts, ~~First Extraordinary Session,~~ House File ~~2581, section 40~~ *102*.

ITEM 4. Amend rule 701—53.23(422) as follows:

701—53.23(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, ~~is applicable~~ *may be taken* for Iowa corporation income tax. ~~The~~ *If the taxpayer elects to take the increased Section 179 expensing, the* Section 179 expensing allowance on the Iowa corporation income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006.

53.23(1) *If the taxpayer elects to take the increased Section 179 expensing and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of increased Section 179 expensing, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the increased Section 179 expensing, or taxpayer may reflect the change for increased Section 179 expensing on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.*

See 701—subrule 40.65(1) for examples illustrating how this subrule is applied.

53.23(2) *If the taxpayer elects not to take the increased Section 179 expensing, the expensing allowance is limited to $25,000 for Iowa tax purposes. The difference between the federal Section 179 expensing allowance on such property, if in excess of $25,000, and the Iowa expensing allowance of $25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code without regard to the bonus depreciation provision in Section 168(k).*

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expensing allowance and related depreciation, along with the gain or loss on the sale of qualifying assets for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, can be calculated on Form IA 4562A.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: Taxpayer acquired a $110,000 qualifying asset on January 1, 2003, which has a five-year life for depreciation purposes. Taxpayer was entitled to a $100,000 Section 179 expensing allowance, a $5,000 bonus depreciation deduction under Section 168(k) of the Internal Revenue Code, and an additional depreciation deduction under Section 168 of the Internal Revenue Code for a total deduction of

$106,000 for federal tax purposes. For Iowa purposes, taxpayer filed a return showing a $25,000 Section 179 expensing allowance and a $17,000 depreciation deduction using MACRS, for a total Iowa deduction of $42,000. Therefore, since taxpayer elected not to take the increased Section 179 expensing for Iowa tax purposes, a $64,000 ($106,000 − $42,000) adjustment to net income relating to this Section 179 and depreciation adjustment would be made on the Iowa return for 2003. Similar adjustments would be made on the 2004 and 2005 Iowa returns if taxpayer elected not to take the increased Section 179 expensing for Iowa tax purposes.

EXAMPLE 2: Assume the same facts as given in Example 1, and the qualifying asset was sold on December 31, 2005, for $50,000. Taxpayer elected not to take the increased Section 179 expensing for Iowa tax purposes. Taxpayer would have claimed $108,560 of Section 179 and depreciation deductions on the federal returns for 2003-2005. This results in a basis for this asset of $1,440 ($110,000 − $108,560), and a gain of $48,560 ($50,000 − $1,440) on the federal return for 2005 on the sale of the asset.

Taxpayer would have claimed $85,520 of Section 179 and depreciation deductions using the Section 179 limit of $25,000 and the MACRS depreciation method on the Iowa returns for 2003-2005. This results in a basis for this asset of $24,480 ($110,000 − $85,520), and a gain of $25,520 ($50,000 − $24,480) on the Iowa return for 2005 on the sale of the assets. Therefore, an adjustment to net income of $23,040 ($48,560 − $25,520) relating to this gain adjustment would be made on the Iowa return for 2005.

This rule is intended to implement Iowa Code section ~~422.32~~ *422.35* as amended by ~~2004~~ *2005* Iowa Acts~~, First Extraordinary Session~~, House File ~~2581, section 39~~ *102*.

ITEM 5. Amend rule 701—59.23(422) as follows:

701—59.23(422) Additional first-year depreciation allowance.

59.23(1) *Assets acquired after September 10, 2001, but before May 6, 2003.* For tax periods ending after September 10, 2001, but beginning before May 6, 2003, the additional first-year depreciation allowance ("bonus depreciation") of 30 percent authorized in Section 168(k) of the Internal Revenue Code, as enacted by Public Law No. 107-147, Section 101, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets ~~placed in service~~ *acquired* after September 10, 2001, but before May 6, 2003, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets ~~placed in service~~ *acquired* after September 10, 2001, but before May 6, 2003, can be calculated on Form IA 4562A.

See ~~rule 701—53.22(422)~~ *701—subrule 53.22(1)* for examples illustrating how this ~~rule~~ *subrule* is applied.

59.23(2) *Assets acquired after May 5, 2003, but before January 1, 2005.* For tax periods beginning after May 5, 2003, but beginning before January 1, 2005, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 108-27, Section 201, ~~is applicable~~ *may be taken* for Iowa franchise tax. ~~The~~ *If the taxpayer elects to take the 50 percent bonus depreciation, the* depreciation deduction allowed on the Iowa franchise tax return is the same as the depreciation deduction allowed on the federal income tax return for assets ~~placed in service~~ *acquired* after May 5, 2003, but before January 1, 2005.

a. If the taxpayer elects to take the 50 percent bonus depreciation and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of 50 percent bonus depreciation, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the 50 percent bonus depreciation provision, or taxpayer may reflect the change for 50 percent bonus depreciation on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

See 701—subrule 40.60(2), paragraph "a," for examples illustrating how this subrule is applied.

b. If the taxpayer elects not to take the 50 percent bonus depreciation, taxpayer must add the total amount of depreciation claimed on assets acquired after May 5, 2003, but before January 1, 2005, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k). If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets. The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after May 5, 2003, but before January 1, 2005, can be calculated on Form IA 4562A.

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2004~~ *2005* Iowa Acts~~, First Extraordinary Session~~, House File ~~2581, section 40~~ *102*, and ~~Iowa Code~~ section 422.61.

ITEM 6. Amend rule 701—59.24(422) as follows:

701—59.24(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, ~~is applicable~~ *may be taken* for Iowa franchise tax. ~~The~~ *If the taxpayer elects to take the increased Section 179 expensing, the* Section 179 expensing allowance on the Iowa franchise tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006.

59.24(1) *If the taxpayer elects to take the increased Section 179 expensing and had filed an Iowa return prior to February 24, 2005, which reflected the disallowance of increased Section 179 expensing, the taxpayer may choose between two options to reflect this change. Taxpayer may either file an amended return for the applicable tax year to reflect the increased Section 179 expensing, or taxpayer may reflect*

REVENUE DEPARTMENT[701](cont'd)

the change for increased Section 179 expensing on the next Iowa return filed subsequent to February 23, 2005. Taxpayer must choose only one of these two options. Regardless of the option chosen, taxpayer must complete and attach a revised Form IA 4562A to either the amended return or the return filed subsequent to February 23, 2005.

See 701—subrule 40.65(1) for examples illustrating how this subrule is applied.

59.24(2) *If the taxpayer elects not to take the increased Section 179 expensing, the expensing allowance is limited to $25,000 for Iowa tax purposes. The difference between the federal Section 179 expensing allowance on such property, if in excess of $25,000, and the Iowa expensing allowance of $25,000 can be depreciated using the modified accelerated cost recovery system (MACRS) applicable under Section 168 of the Internal Revenue Code without regard to the bonus depreciation provision in Section 168(k).*

If any such property was sold or disposed of during the tax year, the applicable Section 179 and related depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both the Section 179 expensing allowance and related depreciation, along with the gain or loss on the sale of qualifying assets for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006, can be calculated on Form IA 4562A.

See 701—subrule 53.23(2) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section ~~422.32~~ *422.35* as amended by ~~2004~~ *2005* Iowa Acts~~, First Extraordinary Session~~, House File ~~2581, section 39~~ *102*, and ~~sections~~ *section* ~~422.35 and~~ 422.61.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/05.

ARC 4061B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133(2), the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The purpose of this amendment is to assist the Department in identifying stationary sources of air pollution potentially subject to the Best Available Retrofit Technology (BART) emission control requirements established by the federal Regional Haze Regulations. The federal Regional Haze Regulations are mandated by the federal Clean Air Act (Clean Air Act, Section 169(a), as codified in 40 CFR 51.301 and 51.308). The Department must comply with the Regional Haze Regulations by December 2007.

Regional haze is visibility impairment at federal mandatory Class I areas (i.e., national parks and wilderness areas) caused by tiny particles that absorb and scatter sunlight, giving the sky a veil of white and brown haze. Previous federal regulations addressed visibility impairment attributable to specific sources. The Regional Haze Regulations address visibility impairment resulting from air pollution transported hundreds of miles and attributable to the cumulative emissions from widely distributed sources.

The federal Regional Haze Regulations were originally promulgated by the U.S. Environmental Protection Agency (EPA) in 1999. Guidelines intending to clarify the BART provisions of the federal Regional Haze Regulations were issued by EPA in 2001. Due to litigation, the BART guidelines were reproposed with modifications on May 5, 2004. The modified guidelines, which must be final by April 15, 2005, are to include a mechanism by which individual sources may be exempted from BART emission control requirements on a case-by-case basis. Due to a lack of certainty regarding aspects of the federal guidelines for the BART provisions of the Regional Haze Regulations, the Department proposed a bifurcated rule-making process.

This rule requires owners or operators of stationary sources meeting the eligibility criteria for BART to submit source identification and emission unit description information to the Department. The Department would review the information solicited by this rule for completeness and to determine whether each stationary source of air pollution meets the requirements for being considered BART-eligible. Stationary sources not reasonably anticipated to cause or contribute to any visibility impairment in any federal mandatory Class I area would be notified by the Department that they are exempt from further action under BART.

Following the self-identification process set out in this rule making and prior to December 2007, the Department anticipates a future rule making setting out the procedure the Department will follow to comply with the remainder of the BART provisions of the Regional Haze Regulation requirements. Following that rule making, each stationary source of air pollution determined to be BART-eligible would undergo review by the Department to determine whether air pollutant emissions from the source could reasonably be anticipated to cause or contribute to any visibility impairment in any federal mandatory Class I area.

The Department has met with a representative group of potential BART-eligible sources regarding the BART requirements and the time line required by the federal regulations for implementation. Following those meetings, the Department estimates that approximately 40 stationary sources will need to complete the BART Eligibility Certification Form #542-8125. In addition, the Department estimates that approximately 10 stationary sources in the state will be required to submit BART engineering analyses after exemption determinations are completed.

New rule 567—22.9(455B) identifies the characteristics of an air pollution stationary source subject to BART regulation. BART-eligible stationary sources are those sources which have the potential to emit 250 tons or more of any visibility-impairing air pollutant from emissions units that were placed in service between August 7, 1962, and August 7, 1977; and whose operations fall within one or more of the 26 "stationary source categories" listed in rule 567—22.100(455B). Visibility-impairing air pollutants include nitrogen oxides (NO_x), sulfur dioxide (SO_2), particulate matter (PM_{10}), and volatile organic compounds (VOC).

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3871B**. An informational meeting was held on December 9, 2004, and a public hearing was held on January 14, 2005. One oral comment and no written comments were received. This amendment has been modified from that published under Notice of Intended Action, based on the oral public comment received.

Based on a comment received during the public hearing, the date by which affected facilities shall submit to the Department a completed BART Eligibility Certification Form #542-8125 was changed from July 1, 2005, as originally proposed in the Notice of Intended Action, to September 1, 2005.

This amendment is intended to implement Iowa Code section 455B.133(2).

This amendment will become effective April 20, 2005.

The following amendment is adopted.

Amend 567—Chapter 22 by adopting the following **new** rule:

567—22.9(455B) Special requirements for visibility protection.

22.9(1) Best available retrofit technology (BART) applicability. Sources shall comply with the provisions of subrule 22.9(2) if the sources fall within numbers 1 through 26 of the "stationary source categories" of air pollutants listed in rule 22.100(455B) and if they meet the following criteria:

a. Any emission unit startup began after August 7, 1962; and

b. Construction of the emission unit commenced on or before August 7, 1977; and

c. The sum of the potential to emit, as "potential to emit" is defined in 567—20.2(455B), from emission units identified above is equal to or greater than 250 tons per year or more of one of the following pollutants: nitrogen oxides, sulfur dioxide, particulate matter (PM_{10}), or volatile organic compounds.

22.9(2) Duty to self-identify. The owner or operator or designated representative of a facility meeting the conditions of subrule 22.9(1) shall submit two copies of a completed BART Eligibility Certification Form #542-8125. The BART Eligibility Certification Form #542-8125 shall include all information necessary for the department to complete eligibility determinations. The information submitted shall include source identification, description of processes, potential emissions, emission unit and emission point characteristics,

date construction commenced and date of startup, and other information required by the department. The completed form shall be submitted to the Air Quality Bureau, Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, by September 1, 2005.

[Filed 2/25/05, effective 4/20/05]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/05.

ARC 4060B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

These amendments include implementation of Iowa Code section 455B.133(10) as amended by 2004 Iowa Acts, House File 2392.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3872B**. A public hearing was held on January 10, 2005. Two oral comments were presented at the hearing. Four written comments were received prior to the close of the public comment period. The public comment period closed on January 17, 2005.

The submitted comments and the Department's response to the comments are summarized in a responsiveness summary available from the Department. These amendments have been modified from the amendments published under Notice of Intended Action as a result of the comments. A discussion of the changes from the Notice is included in the following description of the amendments.

Item 1 amends subrule 23.2(2) by striking the last sentence. This sentence refers to adequate documentation needed to make application for variances for training fires and the controlled burn of a demolished building. Since this subrule applies to variances for all open burning rules, the last sentence in this subrule is too restrictive. Further, specific language regarding variances from the requirements for a controlled burn of a demolished building is included in the subparagraph for that exemption.

Item 2 amends the introductory paragraph to subrule 23.2(3) by adding two new sentences. The new sentences clarify that the exemptions for the open burning rules do not exempt any person from compliance with other applicable environmental regulations. In particular, these rules do not absolve a person from compliance with the rules for solid waste disposal, including ash disposal, and solid waste permitting contained in 567—Chapters 100 through 130, or from the storm water discharge and storm water permitting requirements contained in 567—Chapters 60 and 64. This amendment was added in response to public comment stating that persons conducting open burning may disregard, or be unaware of, other environmental regulations. This amendment does not add any new requirements. It is a reminder that solid waste rules, storm water rules, and other environmental regulations may apply to open burning activities.

Item 3 rescinds paragraph 23.2(3)"g," which currently contains the exemption for both training fires and controlled burning of a demolished building, and replaces it with the requirements for conducting training fires. Other than the reorganization of paragraph "g" for this purpose, no changes are made to the requirements for training fires.

Item 4 creates a new paragraph 23.2(3)"j" that details the conditions and requirements for the revised exemption provided to a city for "controlled burning of a demolished building" in accordance with the provisions of Iowa Code section 455B.133(10). The changes to the requirements for conducting "controlled burning of a demolished building," in addition to the creation of the new paragraph, are:

- Renumbering and regrouping the requirements for demolished building burns. The requirements are now grouped by category.
- Adding a requirement that the city council, as "council" is defined in the Iowa Code, approve all demolished building burns. This change is being made to ensure that a city has a formal mechanism for approving all burns.
- Adding a sentence specifying that a city is the only party that may conduct these burns and is responsible for ensuring compliance with all rule requirements. This addition is to emphasize that the rule allows only a city to conduct a demolished building burn and that the city must ensure compliance with the rules.
- Adding a requirement that the city submit the notification of a demolished building burn at least 10 working days before demolition commences, in addition to the currently required 30 days before burning commences. This addition will make the rule consistent with notification requirements for institutional demolitions specified under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for asbestos.
- Adding a requirement that documentation of city council approval be submitted with the notification required for all demolished building burns. This change is being made to require documentation that the city council has sanctioned the burn.
- Changing the information required to be included in the notification to include that the city specify the method used to notify "nearby" residents of the proposed burn, rather than only "city" residents. This change was made in response to public comments regarding notification to property owners and inhabitants who are in the proximity of burns conducted outside the city limits. This change expands the requirement regarding notification of the controlled burn of a demolished building to include residents both within city limits and outside the city limits.
- Adding a requirement that, for burns conducted outside the city limits, the city shall send to the chairperson of the applicable county board of supervisors a copy of the completed DNR notification form and documentation of city council approval. Notification to the county shall be postmarked, faxed or sent by electronic mail at least 30 days before the proposed controlled burn commences. This requirement was added in response to public comment expressing concern that burns conducted outside the city limits may cause potential conflict between cities and counties. Although the city is the only party that may conduct these burns, burns conducted outside the city limits may be subject to county ordinances or other regulations. In addition, county citizens and board members may be unaware of city council approval to conduct a burn in their county.

Advance notification to the chairperson of the county board will allow county government the opportunity to contact the city, in advance of the burn, with any questions or

concerns. The city is already required to submit a completed notification and documentation of city council approval to the Department at least 30 days in advance of the proposed burn. This addition simply requires that an additional copy of these documents be mailed, faxed or E-mailed to the county board. As such, the Department considers this modification to be within the scope of the Notice of Intended Action.

- Adding a limit of 1700 square feet for the allowed building size for burns conducted at a designated site outside the city limits. The building size limit is needed to demonstrate modeled attainment with the National Ambient Air Quality Standards (NAAQS) for particulate matter less than or equal to 10 microns in diameter (PM_{10}) and carbon monoxide (CO).
- Adding household appliances and vinyl products (such as flooring and siding) to the list of materials that may not be burned in the controlled burn of a demolished building. These items were added to the list in response to public comments. The Department considers these items to be covered under the term "other nonstructural materials" contained in the current rule. However, public comments noted that these specific items are frequently found in demolished or dilapidated homes. Additionally, burning of these items could emit toxic air pollutants. The Department is therefore including these items in the list of materials that may not be burned.
- Adding landscape waste and residential waste to the list of materials that may not be burned in the controlled burn of a demolished building. This change is being made to prevent open dumping of residential waste and landscape waste for which other means of disposal are available.
- Decreasing the number of demolished building burns that can be conducted within a 0.6-mile radius within the city limits from three burns in three years to one burn per calendar year. This requirement is included in the amendments to Iowa Code section 455B.133(10).
- Adding limits on the location and number of burns conducted at a designated site outside the city limits. One burn per day may be conducted at a designated site at least 0.6 of a mile from any building inhabited by a person. These requirements are included in the amendments to Iowa Code section 455B.133(10). In addition, the term "person," as defined in Iowa Code section 362.2(17), is added. This change clarifies that inhabited building includes a building inhabited by people who are residents or who are employees of a business, but does not include a building inhabited by only livestock or other animals.
- Adding requirements that the city control access to all demolished building burn sites and that representatives of the city who are city employees or who are hired by the city supervise all burns at all times. These requirements are included in the amendments to Iowa Code section 455B.133(10). A clarification is also added to better define "representatives of the city."
- Adding to the city's record-keeping requirements for demolished building burns by including the requirement that the city keep a copy of all notifications and supplementary information submitted to the Department. This modification was made in response to public comment requesting that the documentation and record-keeping requirements be strengthened to verify regulatory compliance. Much of the information identified in the public comments is already required to be submitted to the Department on DNR notification form 542-8010. It is expected that cities are already retaining at least one copy of these documents for their records. This addition will ensure that the city is keeping adequate documentation of all burns. As such, the Department considers this modification to be within the scope of the original Notice of Intended Action.
- Adding to the city's record-keeping requirements by including the requirement that the city keep documentation showing the date of each demolished building burn and the square feet of building material to be burned on each date. This is in addition to the current requirement that the city keep a map showing the exact location of each burn. This change is being made to confirm that the city is keeping adequate documentation of all burns.
- Clarifying that the city clerk, as "clerk" is defined in the Iowa Code, must maintain all required records for all demolished building burns.
- Adding a three-year retention period for all records required for demolished building burns. Records must be kept for three years because exceedances of the NAAQS for PM_{10} are tracked over a three-year period.
- Adding a clarification that compliance with the requirements for the controlled burn of a demolished building does not absolve the city from compliance with other applicable environmental regulations, such as solid waste and storm water rules. This language was included in response to public comment. As noted under the description of Item 2 above, some public comments expressed concern that a city may disregard, or be unaware of, other rules to which it may be subject. Although this language was added to the introductory paragraph of subrule 23.2(3), which pertains to all open burning exemptions, the Department is also adding it to paragraph 23.2(3)"j," which sets forth the conditions for a controlled burn of a demolished building. This activity, in particular, may generate regulated solid waste, including ash, or storm water runoff. The addition of this language does not add any new requirements. It is a reminder that the solid waste and storm water rules may apply to the controlled burn of a demolished building.

The Department conducted ambient air quality modeling and determined that if the requirements listed in this rule making are met, then the ambient air quality standards for PM_{10} and CO are predicted to be maintained throughout the state. Because of potential impacts to the public health from the controlled burning of demolished buildings, the amendments contain limits on the location and number of controlled burns. For burns conducted within the city limits, each city shall be able to undertake no more than one controlled burn of demolished building material in every 0.6-mile-radius circle during each calendar year. For burn sites established outside the city limits, each city shall be able to undertake no more than one controlled burn of demolished building material per day, and the site must be located at least 0.6 of a mile from any building inhabited by a person.

A city wishing to conduct additional controlled burns could, in accordance with the variance provisions in 567—subrules 21.2(1) and 23.2(2), request that the Department conduct a special review of the ambient air impacts. Upon conducting this review, the Department would approve or deny the city's request for any additional controlled burns.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective April 20, 2005.

The following amendments are adopted.

ITEM 1. Amend subrule 23.2(2) as follows:

23.2(2) Variances from rules. Any person wishing to conduct open burning of materials not exempted in 23.2(3) may make application for a variance as specified in 567—subrule

21.2(1). In addition to requiring the information specified under 567—subrule 21.2(1), the director may require any person applying for a variance from open burning rules to submit adequate documentation to allow the director to assess whether granting the variance will hinder attainment or maintenance of a National Ambient Air Quality Standard (NAAQS). ~~Adequate documentation requested may include, but is not limited to, the information required under 23.2(3)"g"(2)"2."~~

ITEM 2. Amend subrule 23.2(3), introductory paragraph, as follows:

23.2(3) Exemptions. *The open burning exemptions specified in this subrule shall not be construed as exemptions from any other applicable environmental regulations. In particular, the exemptions contained in this subrule do not absolve any person from compliance with the rules for solid waste disposal, including ash disposal, and solid waste permitting contained in 567—Chapters 100 through 130 or the rules for storm water runoff and storm water permitting contained in 567—Chapters 60 and 64.* The following shall be permitted unless prohibited by local ordinances or regulations.

ITEM 3. Rescind subrule **23.2(3)**, paragraph **"g,"** and adopt the following **new** paragraph **"g"** in lieu thereof:

g. Training fires. For purposes of subrule 23.2(3), a "training fire" is a fire set for the purposes of conducting bona fide training of public or industrial employees in firefighting methods. For purposes of this paragraph, "bona fide training" means training that is conducted according to the National Fire Protection Association 1403 Standard of Live Fire Training Evolutions (2002 Edition) or a comparable training fire standard. A training fire may be conducted, provided that all of the following conditions are met:

(1) A training fire on a building is conducted with the building structurally intact.

(2) The training fire does not include the controlled burn of a demolished building.

(3) If the training fire is to be conducted on a building, written notification is provided to the department on DNR Form 542-8010, Notification of an Iowa Training Fire-Demolition or a Controlled Burn of a Demolished Building, and is postmarked or delivered to the director at least ten working days before such action commences.

(4) Notification shall be made in accordance with 40 CFR Section 61.145, "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), as amended through January 16, 1991.

(5) All asbestos-containing materials shall be removed prior to the training fire.

(6) Asphalt roofing may be burned in the training fire only if notification to the director contains testing results indicating that none of the layers of asphalt roofing contain asbestos. During each calendar year, each fire department may conduct no more than two training fires on buildings where asphalt roofing has not been removed, provided that for each of those training fires the asphalt roofing material present has been tested to ensure that it does not contain asbestos. Each fire department's limit on the burning of asphalt roofing shall include both training fires and the controlled burning of a demolished building, as specified in 23.2(3)"j."

(7) Rubber tires shall not be burned during a training fire.

ITEM 4. Amend subrule **23.2(3)** by adopting **new** paragraph **"j"** as follows:

j. Controlled burning of a demolished building. A city, as "city" is defined in Iowa Code section 362.2(4), with approval of its council, as "council" is defined in Iowa Code section 362.2(8), may conduct a controlled burn of a demolished building. A city is the only party that may conduct such a burn and is responsible for ensuring that all of the following conditions are met:

(1) Prohibition. The controlled burning of a demolished building is prohibited within the city limits of Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, Pleasant Hill, Buffalo, Davenport, Mason City or any other area where area-specific state implementation plans require the control of particulate matter.

(2) Notification requirements. For each building proposed to be burned, the city fire department or a city official, on behalf of the city, shall submit to the department a completed notification postmarked at least 10 working days prior to commencing demolition and at least 30 days before the proposed controlled burn commences. Documentation of city council approval shall be submitted with the notification. Information required to be provided shall include: the exact location of the burn site; the approximate distance to the nearest neighboring residence or business; the method used by the city to notify nearby residents of the proposed burn; an explanation of why alternative methods of demolition debris management are not being used; and information required by 40 CFR Section 61.145, "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), as amended through January 16, 1991. Notification shall be provided on DNR Form 542-8010, Notification of an Iowa Training Fire-Demolition or a Controlled Burn of a Demolished Building. For burns conducted outside the city limits, the city shall send to the chairperson of the applicable county board a copy of the completed DNR notification form 542-8010 and documentation of city council approval. Notification to the county board shall be postmarked, faxed or sent by electronic mail at least 30 days before the proposed controlled burn commences.

(3) Asbestos removal requirements. All asbestos-containing materials shall be removed before the building to be burned is demolished. The department may require proof that any applicable inspection, notification, removal and demolition occurred, or will occur, in accordance with 40 CFR Section 61.145, "Standard for Demolition and Renovation" of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), as amended through January 16, 1991.

(4) Requirements for asphalt roofing. During each calendar year, each city shall conduct no more than two controlled burns of a demolished building in which asphalt roofing has not been removed, provided that for each controlled burn of a demolished building the asphalt roofing material present has been tested to ensure that it does not contain asbestos. Each city's limit on the burning of asphalt roofing shall include both the controlled burning of a demolished building and training fires, as specified in paragraph 23.2(3)"g."

(5) Building size limit. For each proposed controlled burn located within the city limits, more than one demolished building may be included in the burn, provided that the sum total of all building material to be burned at a designated site does not exceed 1700 square feet in size. For a controlled burn site located outside the city limits, the sum total of all building material to be burned, per day, may not exceed 1700 square feet in size. For purposes of this subparagraph, "square feet" includes both finished and unfinished base-

ments and excludes unfinished attics, carports, attached garages, and porches that are not protected from weather.

(6) Time of day requirements. The controlled burning of a demolished building may be conducted only between the hours of 6 a.m. and 6 p.m. and only when weather conditions are favorable with respect to surrounding property. The city shall adequately schedule and sufficiently control the burn to ensure that burning is completed by 6 p.m.

(7) Prohibited materials. Rubber tires, chemicals, furniture, carpeting, household appliances, vinyl products (such as flooring or siding), trade waste, garbage, rubbish, landscape waste, residential waste, and other nonstructural materials shall not be burned.

(8) Limits on the number and location of burns. For burns conducted within the city limits, each city may undertake no more than one controlled burn of demolished building material in every 0.6-mile-radius circle during each calendar year. For burn sites established outside the city limits, each city shall undertake no more than one controlled burn of demolished building material per day. A burn site outside the city limits must be located at least 0.6 of a mile from any building inhabited by a person, as "person" is defined in Iowa Code section 362.2(17).

(9) Requirements for burn access and supervision. The city shall control access to all demolished building burn sites. Representatives of the city who are city employees or who are hired by the city shall supervise the burning of demolished building material at all times.

(10) Record-keeping requirements. The city shall retain at least one copy of all notifications and supplementary information required to be sent to the department under subparagraph (2). Additionally, the city shall maintain a map of the exact location of each burn site, and supporting documentation showing the date of each demolished building burn and the square feet of building material burned on each date. All maps, notifications and associated records shall be maintained by the city clerk, as "clerk" is defined in Iowa Code section 362.2(7), for a period of at least three years and shall be made available for inspection by the department upon request.

(11) Variance from this paragraph. In accordance with 567—subrules 21.2(1) and 23.2(2), a city may apply for a variance from the specific conditions for controlled burning of a demolished building and may request that the director conduct a review of the ambient air impacts of the request. The director shall approve or deny the request in accordance with 567—subrule 21.2(4).

(12) Compliance with other applicable environmental regulations. Compliance with the exemption requirements in this paragraph shall not absolve a city of the responsibility to comply with any other applicable environmental regulations. In particular, a city conducting a controlled burn of a demolished building shall comply with all applicable solid waste disposal, including ash disposal, and solid waste permitting rules contained in 567—Chapters 100 through 130, as well as all applicable storm water discharge and storm water permitting rules contained in 567—Chapters 60 and 64.

[Filed 2/25/05, effective 4/20/05]
[Published 3/16/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/05.

ARC 4067B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89.10(5) and (7), the Boiler and Pressure Vessel Board amends Chapter 207, "Installation of Steam Heating Boilers, Hot Water Heating Boilers and Hot Water Supply Boilers," Iowa Administrative Code.

These amendments clarify that aluminum boiler technology is improved and safe as regulated by the American Society of Mechanical Engineers (ASME) Code Cases, and eliminate confusion resulting from conflict between Chapter 207 and the ASME Boiler and Pressure Vessel Code in the requirements for 30 psi expansion tanks.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 19, 2005, as **ARC 3938B**. Public comment was received.

Subrule 207.2(8) twice mentioned the date "April 20, 2005" in the Notice of Intended Action. These dates now read "January 1, 2005," so that the date of acceptance of the type of boiler will be easier to remember. As all public comments were in favor of this subrule and this subrule is expansive rather than restrictive of the options of affected persons, this date change is not substantial. This subrule allows for certain types of boilers to be installed which could not previously be installed.

These amendments were adopted by the Board on February 23, 2005.

These amendments shall become effective April 20, 2005.

These amendments are intended to implement Iowa Code chapter 89.

The following amendments are adopted.

ITEM 1. Amend rule 875—207.2(89) by adopting the following **new** subrule:

207.2(8) Installations on or after January 1, 2005—aluminum alloy sand castings. On or after January 1, 2005, new installations of boilers, including reinstalled boilers, may be designed, manufactured, installed, inspected, and stamped in accordance with the requirements of ASME Code Cases 2382-1, 2393, and 2394.

ITEM 2. Amend paragraph **207.4(6)"c"** as follows:

c. ~~Closed type systems require an airtight tank or other suitable air cushion to be installed that will be consistent with the volume and capacity of the system and shall be suitably designed for a hydrostatic test pressure of 2½ times the allowable working pressure of the system. Expansion tanks designed to operate at or above 30 psig~~ *An expansion tank shall be installed that will be consistent with the volume and capacity of the system. If the system is designed for a working pressure of 30 psi or less, the tank shall be suitably designed for a minimum hydrostatic test pressure of 75 psi. Expansion tanks for systems designed to operate above 30 psi* shall be constructed in accordance with ASME Code, Section VIII, *Division I,* in effect when installed. Provisions shall be made for draining the tank without emptying the system, except for prepressurized tanks.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/05.

ARC 4039B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of 2004 Iowa Acts, chapter 1175, section 427, the Board of Interpreter for the Hearing Impaired Examiners hereby adopts new Chapter 360, "Administrative and Regulatory Authority for the Board of Interpreter for the Hearing Impaired Examiners," and new Chapter 364, "Fees," Iowa Administrative Code.

This amendment adopts new chapters pursuant to enabling legislation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 8, 2004, as **ARC 3843B**. A public hearing was held on January 6, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received.

One change has been made to the Notice of Intended Action. Subrule 364.1(6) has been corrected and reads as follows:

"**364.1(6)** Duplicate or reissued license certificate or wallet card fee is $10."

These rules will become effective April 20, 2005.

These rules are intended to implement Iowa Code chapters 21, 147 and 272C and 2004 Iowa Acts, chapter 1175, sections 426 to 429.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 360, 364] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 3843B**, IAB 12/8/04.

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